COAST GUARD SHIPBUILDING STANDARDS

HEARING

RE THE

SUBCOMMITTEE ON
COAST GUARD AND NAVIGATION

OF THE

COMMITTEE ON
MERCHANT MARINE AND FISHERIES
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

SECOND SESSION

ON

IMPROVING SHIPBUILDING STANDARDS TO MAKE U.S.-FLAG OPERATORS AND SHIPYARDS MORE COMPETITIVE IN WORLD MARKETS WHILE MAINTAINING VESSEL SAFETY AND PROTECTING THE MARINE ENVIRONMENT

JUNE 22, 1994

Serial No. 103–110

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CONTENTS

COAST GUARD SHIPBUILDING STANDARDS

WEDNESDAY, JUNE 22, 1994

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COAST GUARD AND NAVIGATION,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, DC.

The Subcommittee met, pursuant to call, at 10:00 a.m., in room 1334, Longworth House Office Building, Hon. H. Martin Lancaster presiding.

Present: Representatives Hughes, Lancaster, Barlow, Pickett, Taylor and Coble.

Staff Present: Elizabeth Megginson, Catherine Tucker, Jim Adams, Joan Bondareff, Lee Crockett, Ed Lee, Sue Waldron, Rebecca Dye and Margherita Woods.

Mr. LANCASTER. [Presiding.] Good morning. The hearing will come to order.

The Chairman has asked that I conduct this hearing in his absence. He is not feeling well, but I am sure that he is going to be OK.

STATEMENT OF HON. W. J. TAUZIN, A U.S. REPRESENTATIVE FROM LOUISIANA, AS PRESENTED BY HON. H. MARTIN LANCASTER

Mr. LANCASTER. Today, we meet to review the Coast Guard's progress in improving its shipbuilding standards in order to make U.S. flag operators and shipyards more competitive in the world market while maintaining vessel safety and protecting the marine environment. As Members may recall, last June we held a joint hearing on this same topic with the Subcommittee on Merchant Marine.

I want to welcome our witnesses today. Admiral Henn, this is your first opportunity to appear before Congress as Vice Commandant. Congratulations on your promotion. It is certainly well deserved. Your presence today is indicative of the Coast Guard's commitment to the administration's maritime regulatory reform effort.

I would also like to welcome Mr. Eugene K. Pentimonti, the Vice President for Government Services, American President Lines Limited; Mr. Archie Nichols, President of Nichols Brothers Boat Builders, testifying on behalf of the Passenger Vessel Association; Mr. Tauzin's old friend, Bob Alario, President of the Offshore Marine Service Association; and, finally, Mr. Dave Smith, President of the U.S. Marine Safety Association.

A great deal of hard work has gone into the maritime regulatory reform effort. I want to thank all the witnesses here today for their interest in serving and improving the U.S. maritime industry.

I would like to recognize our Ranking Member, the Honorable Howard Coble, for his opening statement.

STATEMENT OF HON. HOWARD COBLE, A U.S. REPRESENTATIVE FROM NORTH CAROLINA, AND RANKING MINORITY MEMBER, SUBCOMMITTEE ON COAST GUARD AND NAVIGATION

Mr. COBLE. Thank you.

Admiral, I extend congratulations to you. Well deserved.

Mr. Chairman, I appreciate this hearing having been called, a follow-up hearing regarding the Coast Guard's shipbuilding standards. I continuing to believe that a successful effort to reform the Coast Guard's standards for the construction of U.S.-flag vessels is crucial in our committee's efforts to save the U.S. merchant marine and the U.S. shipbuilding industry generally.

Our subcommittee's hearing last June, which you mentioned earlier, clearly demonstrated that a large portion of the United States maritime industry will not probably not continue operating their vessels under U.S. flag nor build vessels in our country unless U.S. shipbuilding and inspection standards are brought more closely in line with international standards.

I look forward to hearing from Admiral Henn regarding the Working Group on Maritime Regulatory Reform's progress in bringing the United States standards more closely in sync with the more widely accepted international vessel standards. I hope, as well, that the working group is close to completing its important task so that our committee and the Coast Guard can promptly make the necessary changes in United States laws and regulations.

I share with you in welcoming the representatives of the liners, passenger and offshore supply vessel industries to get their views and input regarding the Coast Guard's progress in resolving this important piece of the maritime reform puzzle.

I thank you again, Mr. Chairman.

Mr. LANCASTER. Thank you, Mr. Coble.

[The statement of Mr. Fields follows:]

STATEMENT OF HON. JACK FIELDS, A U.S. REPRESENTATIVE FROM TEXAS, AND RANKING MINORITY MEMBER, COMMITTEE ON MERCHANT MARINE AND FISHERIES

Mr. Chairman, it has been over a year since we last held a hearing on the important issues we will consider today. United States shipbuilding requirements maintain the safety of passengers and crew carried aboard U.S.-flag vessels. Shipbuilding requirements also control the ultimate profitability of vessel operations. The goal of U.S. shipbuilding requirements should be to maintain a high level of safety without discouraging investment in vessel operations under the U.S. flag.

In 1992, Secretary Card directed the Coast Guard to simplify their ship construction requirements to reduce the regulatory burden on the U.S. merchant marine industry. Since that time, the Coast Guard has not revised even one of the U.S. shipbuilding requirements for vessels in the foreign trade. If the Coast Guard had vigorously pursued a regulatory proposal to revise U.S. shipbuilding requirements in 1992, the proposal would be final today. Unfortunately, although the U.S.-flag vessel operators have continued to press for action, the Coast Guard has not resolved the problems in this area.

Reform of U.S. shipbuilding requirements is an essential part of maritime reform, and we must act now to streamline the U.S. shipbuilding process and requirements. The Coast Guard and representatives of U.S.-flag vessel operators have been meet-

ing to reach agreement on how to approach this problem. Hopefully, they can develop a legislative proposal that we may consider as part of the 1994 Coast Guard Authorization bill that is pending before our Committee. To be acceptable, any legislative proposal must maintain a high level of safety in ship construction, but must also "level the playing field" for vessels in the foreign trade. I will be following this issue closely during the following weeks to assure that we continue to move toward a solution to this problem.

Thank you, Mr. Chairman.

Mr. LANCASTER. Admiral Henn, if you would like to proceed with your testimony, you may. You may choose to summarize that testimony, and if you choose to do so, we will at this point in the record place your entire testimony in the record.

STATEMENT OF REAR ADMIRAL ARTHUR E. "GENE" HENN, VICE COMMANDANT, UNITED STATES COAST GUARD

Vice Admiral HENN. Thank you, Mr. Chairman. Sir, we did submit a very lengthy statement for the record indicating all the various initiatives that the Coast Guard and the Department of Transportation have been working on in partnership with the United States maritime industry. I would like to summarize my comments briefly because I think that the question and answer portion is probably extremely important for today to update where we are.

I would just like to point out that it has been a year since we met here to discuss the need to launch this initiative. The Coast Guard, working very closely with Secretary Peña's staff, have come up with a regime that we think is a win/win for the United States, the United States Government, and the United States maritime industry.

Before giving you an update on some of the specifics, I would just like to say that the maritime regulatory reform of the U.S. vessel standards and inspection procedures is one of the key elements of Secretary Peña's efforts to revise Federal policy to make this Nation's maritime industry and its ship construction and ship operation base competitive in the global marketplace.

Secretary Peña will be issuing a press release today which summarizes where the Department is and, basically, in that press release it indicates that he has directed the Coast Guard to undertake a four-point program and, indeed, we have been working on that program for almost a year. But now to come to conclusion of that program.

That program deals with several regulatory areas and some legislative areas. However, as we talked last year, we recognize there is a need for immediate relief and to provide immediate relief, and we can do this. We have provided a voluntary program that has been developed in conjunction with our U.S. maritime industry to put most of the program in place as of today.

And, indeed, I would point out that there is an American shipyard, there is an American company who has taken advantage of this program. It is the Avondale shipyard, and it is the American Heavy Lift that have taken advantage of the voluntary aspects of the program and indeed are marching ahead, ensuring that the cost of shipbuilding and ship operation in the United States does not exceed that of the foreign market. So we have a real success story there that we can hold up to you.

Let me just briefly go into the compliance options that we have. Working with our industry, the Coast Guard has developed a number of compliance options for demonstrating equivalence with regulatory requirements. This doesn't mean we go outside the box. It means we establish an equivalent. In no way do we degrade the fine U.S. standards that are the benchmark worldwide.

One initiative, in cooperation with the American Bureau of Shipping, will create one-stop shopping through which owners, builders and designers can show compliance with U.S. regulatory requirements. The program goal is to make the U.S. Coast Guard plan review and inspection program less burdensome and more efficient for our industry and, again, without a degradation of our standards.

Both the Coast Guard and the American Bureau of Shipping implementation documents are in the final stages of revision. We are working that, again, through an industry classification society Coast Guard group. We have solicited volunteers from industry and ship operators to be a part of the pilot program where they will actually identify ships that can enter the inspection program under the new voluntary aspects. We will ensure that we have not only a workable program but a program that does, in fact, reduce the cost.

Certainly, we in the Coast Guard support and salute the efforts of the APL, the American President Lines and Sea-Land Service for working so closely with us over the past year as well as OMSA, our good friend Mr. Bob Alario, the safety equipment manufacturers, the shipyards—the smaller shipyards that are looking to build some of the novel craft of the future, as well as the large shipyards.

I mentioned Avondale, but certainly, just to mention a few, Newport News and Bath are making real initiatives to get into the commercial shipbuilding market again and to build the best ships in the world, not only for U.S. flag but for foreign flag.

There will be some legislative changes that are needed. I think we are going to hear more on that from some of the other panel members. We support those changes, but while those changes are being made, we think that the voluntary program that we have put in place will allow us to take advantage of most of the necessary relief that is needed as of today.

Finally, sir, I would just like to say that we have a win/win situation here. We could not have gotten here without all the elements of the United States working together, not only the administration, but the Congress and indeed the industry.

Sir, I would like to conclude my remarks by again thanking all of those who have been a part of this maritime regulatory reform, which is just a piece of the overall maritime policy reform. Thank you, sir.

Mr. LANCASTER. Thank you, Admiral.

[The statement of Rear Admiral Henn may be found at end of hearing.]

Mr. LANCASTER. Mr. Pentimonti.

STATEMENT OF EUGENE K. PENTIMONTI, VICE PRESIDENT FOR GOVERNMENT SERVICES, AMERICAN PRESIDENT LINES, LTD.

Mr. PENTIMONTI. Good morning. I am Gene Pentimonti, Vice President of Government Services for American President Lines. My prepared statement this morning is presented on behalf of both APL and Sea-Land Service, Inc.

For nearly three years now APL and Sea-Land have worked together to try to eliminate this significant barrier to our international competitiveness of the U.S.-flag fleet that we operate and that is the excessive U.S. Coast Guard vessel requirements. Those requirements—governing matters involving the design, equipment, maintenance and inspection of our vessels—are imposed on our liner vessels but not on foreign-flag vessels.

None of these contribute to marine safety, but they add significantly to our costs of operation. Without relief from this unnecessary regulatory burden, our vessels cannot play on a level playing field with those of our foreign-flag competitors.

Today, our companies are building vessels and have a choice of adding those new vessels to our fleet, either as U.S.-flag vessels or foreign-flag registries. The competitive disadvantages on U.S.-flag operations due to these regulations is so serious that each of our companies considers this to be one of problems that must be resolved before we could place those vessels under the United States flag. Thus, as public policy matter, we don't see how the United States-flag liner fleet can be revitalized if this problem is not resolved.

In addition, the same problem and burden should be addressed for our vessels currently under U.S.-flag and subject to those unnecessary burdens.

About a year ago, on June 17, a representative from Sea-Land and myself presented detailed testimony to this committee on the problem. We discussed the extra costs imposed on the operators, specifics of the regulations at issue, and that extra requirements imposed do not enhance safety.

I will save you from many of those details today in my testimony but would like to briefly describe for those who are not familiar the basic nature of the problem. I particularly want to make clear that this is not a safety issue. If it were a safety issue, the Coast Guard would be applying these same regulations to the foreign-flag vessels calling our ports, our competitors's vessels, but they don't. This is merely an issue of costly, excessive regulation. And, in this age of global competition, the U.S.-flag vessels cannot afford to carry regulatory deadweight in doing battle in this competitive marketplace.

The bottom line is that everyone in this room who cares about revitalizing the U.S.-flag liner fleet needs to do whatever it takes to get a real solution to this problem in place before Congress adjourns. We need to close down what has been a long government decisionmaking process and put a firm, satisfactory solution in place.

The Coast Guard, on behalf of our Nation, generally accepts as safe foreign-flag vessels which call at U.S. ports so long as they meet vessel standards imposed by the flag nation. Foreign nations

generally require vessels flying their flags to meet standards adopted by the International Maritime Organization, IMO, and rely on classification societies to inspect vessels for compliance with IMO standards, including the Safety of Life at Sea, SOLAS, convention and other rules.

The Coast Guard has recently taken stronger action against foreign registries which do not do an adequate job of enforcing IMO's regulatory requirements. Let me be clear. We have no objection to that and, in fact, support that effort strongly.

Our objection is that the Coast Guard imposes requirements which are in addition to and different from international norms only on U.S.-flag vessels. These differences cover virtually all issues—construction, engineering, equipment, maintenance and inspections. And, on top of that, by relying less on classification societies than do the authorities in other nations, the Coast Guard effectively requires inspections of U.S. flagships which are duplicative, time consuming and costly compared to the inspections faced by vessels flying other flags.

The Coast Guard's recently announced and commendable initiative to inspect substandard foreign-flag vessels is not an attack on the standards used by those nations. It is instead a response to concern that those standards are not being enforced. So that enforcement actually gives recognition to the international standards applied to foreign flagships by making sure that they are enforced.

Further evidence that the international standards are safe is the safe operating record of the many foreign-flag liner vessels operated by companies which also operate U.S.-flag liner vessels.

In short, the Coast Guard accepts international norms for foreign-flag vessels calling our ports every day of the year. Those vessels carry more than 80 percent of our liner trade and 95 percent of the general trade that comes in and out of this country. The Coast Guard accepts international standards as safe unless a U.S.-flag vessel wants to use them. Then our government requires more. We don't consider this to be logical nor fair.

How much these burdens cost the U.S.-flag operators has been demonstrated many times before, but we have some new information that comes from some of the recently contracted vessels which we are constructing. For example, when Sea-Land asked the shipyard building its newly ordered vessels how much more it would cost to build those vessels to U.S. standards, they were told that would cost nearly $10 million more per ship. That letter is attached for your reference.

In addition, many other costs are imposed in the normal annual inspections of those vessels, estimated to be about $100,000 per year. So if you take the first cost and the operating costs you can see over the life of the vessel, this can be a very significant amount.

Our companies have our own experience operating foreign-flag vessels. A number of the vessels in our fleet, many of these feeder ships, are not U.S.-flag; and the foreign-flag standards that we imposed upon those vessels have no adverse impact on safety.

Our companies are absolutely committed to safe vessel operation. We would not be satisfied with foreign vessel norms unless we were convinced that they provided a high level of safety.

Furthermore, we have discussed these issues with our ship board unions, and they are supportive of our efforts to eliminate these burdens. If vessel safety were an issue, obviously we would not have their support.

Obviously, this issue needs to be changed, and the question is how and when.

Originally, our focus was on a regulatory solution. Over 27 months ago, APL and Sea-Land sent a list of roughly 300 vessel regulations to the agency that we felt should be changed and could be without impacting vessel safety.

Along with others, I have been working very hard with the Coast Guard on this issue throughout this last 27 months, and I believe the agency now better understands our concerns and is trying to fashion solutions.

In particular, the Coast Guard has been developing some guidance documents that hold out promise of providing the needed fix. However, this spring we decided that the record of movement on this issue was such that we could not look solely to a regulatory solution to achieve prompt and positive action.

Legislation is necessary, Mr. Chairman, if there is to be any chance that new vessels presently being built for our companies are to be placed under U.S.-flag. Those vessels are being built to less costly but equally safe international norms. Our companies have said, and we will say again here, that among the prerequisites to our being able to flag those vessels U.S. is U.S. Government acceptance of these international standards.

We testified before the Senate last month that legislation is needed and followed up by suggesting to Senate and House staff and the administration legislative language that would close this regulatory gap.

Within the last month we have had serious and frequent discussions with the Coast Guard. These discussions are very welcome. They have been productive. And we have also been committed to working with the Coast Guard to make sure that they are effected.

We are very open to suggestions from the Coast Guard for different combinations of legislative and regulatory actions on vessel standards that will allow our U.S.-flag vessels to compete on a level playing field consistent with safety. That includes alternatives to what we have already suggested.

At this time, we believe we are making progress on principal issues in these discussion, but we don't yet have alternative language to suggest. However, we are working hard to develop that language which is agreeable to the agency, and we look forward to providing it to Congress as an alternative to what we have already proposed, as soon as it can be developed.

In conclusion, we deeply appreciate the opportunity to appear before you today and to reaffirm the burden of excessive U.S. vessel standards that must be eliminated as part of the effort to revitalize our fleet. We hope that the discussions with the Coast Guard over the past few weeks and continued in the near future will lead us to conclusions that we can present to Congress. Thank you very much.

Mr. LANCASTER. Thank you.

[The statement of Mr. Pentimonti may be found at end of hearing.]

Mr. LANCASTER. Mr. Nichols, I recognize you, but in the interest of time, since your statement is quite lengthy, I would appreciate it if you would summarize. And at this point your full statement will be included in the record.

STATEMENT OF ARCHIE NICHOLS, PRESIDENT, NICHOLS BROTHERS BOAT BUILDERS, ON BEHALF OF THE PASSENGER VESSEL ASSOCIATION

Mr. NICHOLS. Thank you, Mr. Chairman. I have a summary for you this morning.

Mr. Chairman, my name is Archie Nichols from Nichols Brothers Boat Builders. We have two small shipyards, one near Seattle and one near Portland, Oregon.

I am the builder of a number of the small passenger vessels throughout the West Coast and some on the East Coast over the past two decades. I am here today representing the Passenger Vessel Association, a national organization of small passenger vessel owners. The organization name can be abbreviated as PVA.

The PVA represents some 400 small passenger vessel operating companies and approximately 150 builders, designers and suppliers. The PVA is committed to the safety of the public.

The U.S. Coast Guard is also committed to standards that ensure the public that the inspected vessels will be safe with regard to stability, seaworthiness, fire resistance, lifesaving capacity and operational safety.

There is a partnership that has taken place between the U.S. Coast Guard and the marine industry. The result of this is an unequalled safety record for the transportation and excursion of many millions of Americans every year.

Based on that record, it is clear that additional regulation is not needed. The current issue of the Proceedings of the Marine Safety Council lists the Coast Guard's measurable goals for passenger safety as "prevent passenger vessel casualties with major loss of life" or, in other words, maintain the status quo.

In implementation of any new regulation, the goals are more important than the means to reach those goals.

Advancement in technology will continue to provide new lower cost innovations that will reap the same or even improved safety as those intended by the regulatory efforts. As an example, my company, which specializes in light weight aluminum vessel construction, has struck up a partnership with a fiberglass boat building company nearby. We will build the first ever fiberglass hulled aluminum combination vessel that will carry more than 149 passengers.

Approval of this vessel was accomplished by working with the U.S. Coast Guard merchant technical headquarters to present a case for an equivalent level of safety. This agreement, using common sense, reasoning and logic, reaches the same goals as the regulations aimed for, but the regulations do not specifically provide for such an innovation.

Flexibility within the regulations, although difficult to manage, is important to the survival of the passenger vessel industry. This

industry has only finite dollars to work with. More regulation cannot necessarily be paid for by increasing the ticket prices. The competition is not other passenger vessels but rather other forms of entertainment and transportation. We cannot afford outdated, redundant, inefficient regulation that blocks the advancement of marine technology, and we cannot afford regulation just for show.

Just over a year ago we were invited to testify on the Coast Guard shipbuilding standards for the first time, and we appreciated that opportunity. As a result, new dialog spawned between the U.S. Coast Guard and industry.

Since last year, a new interim solution has been found for the IMO-based stability criteria that were applied to domestic vessels. This proposed regulation made it obvious that most IMO standards are not directly applicable to domestic vessels.

Another example of IMO standards that are not directly transferable is the new HSC code, high speed craft code. My company is building the first ever U.S. vessel under this code.

The process has proven to be very costly. A similar vessel by conventional guidelines would run $10 to $11 million. This will one cost over $15 million by this standard.

If the IMO high speed craft code is to be adopted as a U.S. domestic standard, we in the industry would appreciate involvement in that process. Possibly this could be done by a forum composed of various industry experts.

The PVA was a part of the U.S. Coast Guard public hearings on the regulatory process last September, and, as a result, we have high hopes for improved communication in this regard. The problem is that at the time industry and Coast Guard dialog would be the most meaningful, the U.S. Coast Guard feels compelled to withdraw because of its interpretation of the ex parte communications. What we want is more opportunity for interaction during the development process and the finalization of regulation.

The recent Supplementary Notice of Proposed Rulemaking for Inspection and Certification of Small Passenger Vessels was released in January of this year. Although it was a very short time to respond, the marine industry responded with a great deal of interest and enthusiasm and with hundreds of written responses and comments over the past few months.

We expect and hope that these well-thought-out comments will be carefully considered in the final form of the regulation.

While our experience with the U.S. Coast Guard has been very largely positive, a recent loss of a wooden vessel named the El Toro II in December has triggered what we consider to be a little bit of an overreaction. Many wooden boat owners experienced what appeared to be a campaign to drive wooden boats from the passenger fleet as certificates were sometimes pulled without explanation.

The accident involving the El Toro, as we understand it, was the result of a series of acts of omission and commission leading to the loss of the vessel and three lives. The loss of these lives, however regrettable, must be viewed in this case as human error. Retaliation against wooden vessels comprising 27 percent of our fleet is really uncalled for.

No matter how many regulations are added, the element of human error can never be eliminated.

PVA wants to eliminate the perception that industry's proposed regulatory changes are somehow contrary to public interest. The Coast Guard has a tendency to view new innovation sometimes as rule beating or see them as a reason to add yet another layer of regulation, rather than as equivalent levels of standards or even improvement to existing regulation.

Executive order 12866 and Commandant Instruction 5420.32 encourage the development of industry standards in lieu of regulation. The U.S. Coast Guard's announcement on March 2 of 1994 of the formation of the National Fire Protection Association Committee on Merchant Vessel Fire Protection was welcomed by the PVA. We and many of our members intend to participate actively. I, myself, have requested membership in that group.

We do not want to see more burden on the U.S. Coast Guard for implementation of safety standards. They are somewhat overtaxed in just teaching basic regulation to inspection personnel already.

We do not support, however, the concept of delegation of passenger vessel inspection to third parties. Such delegation would lead to the loss of accountability, sensitivity, flexibility and communication with the regulators.

Last June, we laid out the Association's vision for the government's future regulatory safety role for this subcommittee. We believe that the marine safety program can and must work toward industry execution under government delegation. Some form of self-certification by the use of trained industry personnel that are accountable to the Coast Guard would serve this purpose.

Congress has an opportunity in the near future to reduce regulation, to simplify compliance and conserve resources by changing regulatory tonnage concepts and tonnage thresholds. Congress needs to change existing manning statutes in the United States Code of Federal regulations. The issue of manning would be much better addressed under broad legislative guidance to the Secretary.

As a result of current statutes, the industry is forced to go through great cost to build vessels under 100 gross tons in order to control the cost and prevent the outdated manning requirements of the regulations. The U.S. passenger vessel safety record attests to the fact that the public has not been shortchanged in this process.

The Passenger Vessel Association represents an innovative and growing industry with a brilliant future. Small ferryboats and other passenger vessels have safely and efficiently filled a special niche while providing thousands of jobs nationwide. We must maintain a positive cooperative regulatory environment. By doing so, we will continue to flourish as the safest passenger vessel fleet in the world and provide some much-needed help to our suffering shipbuilding industry.

Thank you for this opportunity to share our views with you today. And it is our hope that future regulation will provide for economic growth in the passenger vessel industry that will go hand in hand with public safety and environmental protection.

Mr. LANCASTER. Thank you Mr. Nichols.

[The statement of Mr. Nichols may be found at end of hearing.]

Mr. LANCASTER. Mr. Alario, we will call on you and would encourage you to summarize your statement. And your complete statement will be placed in the record at this point.

STATEMENT OF ROBERT J. ALARIO, PRESIDENT, OFFSHORE MARINE SERVICE ASSOCIATION

Mr. ALARIO. Thank you.

I am Bob Alario, President of the Offshore Marine Service Association, which I represent today.

The Offshore Marine Service Association, or OMSA, represents more than 270 companies that operate special purpose vessels or provide equipment, services and supplies in support of offshore oil and gas operations worldwide. This includes numerous small- and intermediate-size shipyards that specialize in the construction and repair of these specially designed offshore service vessels.

Cumulatively, these shipyards employ thousands of U.S. shipyard workers and indirectly are responsible for thousands more support jobs which are and will be affected by what we do today.

OMSA has been asked to comment and offer recommendations on ways to improve the U.S. shipbuilding standards and related requirements in an effort to make them more efficient and less costly, while maintaining vessel safety and maintainability. We propose to do that at least with respect to our own industry.

We thank the Chairman and the Members of the subcommittee for this important opportunity, and we respectfully offer the following comments and recommendations.

As I have indicated, offshore supply vessels encompass vessels of different types serving the offshore petroleum and minerals industry by delivering equipment, personnel and services to offshore drilling, research and production facilities.

Under current law, OSVs are measured according to the U.S. regulatory tonnage standards. Under that system, in order to be classed as offshore supply vessel, for example, the boat must measure less than 500 U.S. gross tons.

The arbitrary 500 gross ton limitation was established years ago, before the U.S. became a signatory to the International Tonnage Convention, which employs a different system of vessel admeasurement. Therein lies our dilemma. The U.S. has since become a signatory to the ITC and to the Convention of Standards on Training and Watchkeeping, the STCW, both of which are tonnage sensitive and interrelated.

What is key here is that after next month, July 18th, 1994, new U.S. vessels built that would operate or want the capability to operate in foreign waters must mandatorily be measured under the ITC system. The regulations will apply in relation to licensing and other requirements under the conventions that are tied to tonnage thresholds under the ITC system of admeasurement as opposed to the U.S. system.

The two systems of tonnage admeasurement vary greatly. The U.S. system encourages the use of tonnage exemptions, cutting through bulkheads, deep frames, et cetera, in order to keep tonnage low. This is done not to skirt safety but simply to, wherever possible, get under the 500 gross tons.

Actually, most of our vessels fall way under 500 gross tons, but we have an example that is in the written statement, Mr. Chairman, that reflects the significance of this difference between the two systems. With your permission, in the question and answer period, we will touch briefly on it.

But meanwhile, we submit there is a misconception or perception of size that is simply not accurate when you compare measurement of one vessel under the U.S. system and the same vessel or similar vessel under the ITC system.

Our objectives are as follows: We must, here in the United States, in effect, protect the sizable existing fleet of offshore vessels which ranges between 1,200 to 1,400 relatively small but important U.S. vessels. These are U.S.-flag vessels, and in fact, the largest U.S.-flag fleet working overseas. We must, first, protect this existing fleet from any arbitrary or negative impact coming from the effective implementation, as of July 18, 1994, of the International Tonnage Convention and STCW; and, two, we must encourage and accelerate the design and construction of new, more efficiently designed offshore service vessels in U.S. shipyards so that these more sophisticated, but not necessarily larger vessels, and their crews and officers, are optimally competitive in international markets, regaining the highly diminished U.S. technological edge.

I have good news. I think the Coast Guard, and our industry at least, are on the same sheet of music with regard to how we might accomplish that. And specifically, therefore, we have submitted a legislative proposal to the committee containing detailed recommendations for technical amendments to subject laws with a view toward establishing a new companion class of offshore supply vessels, which would be classed under the ITC admeasurement system. This would meet your critical objectives with regard to the existing fleet of vessels and also promote efficient new designs with regard to the vessels of the future.

We believe that these technical accommodations will serve to enhance the competitive position of this vital offshore marine service industry. It will open new markets for U.S. shipyards. It will provide and protect employment opportunities for U.S. merchant mariners and shipyard workers and meet our responsibility to build and operate vessels in a safe and environmentally conscious manner.

However, time is working against us because of the dates that are involved. Your assistance is requested and is critical.

Mr. Chairman, Members of the committee, I thank you for this opportunity to comment on this important matter, and we would be pleased to answer any questions you may have.

Mr. LANCASTER. Thank you, Mr. Alario.

[The statement of Mr. Alario may be found at end of hearing.]

Mr. LANCASTER. Mr. Smith, you are our concluding witness. Your complete statement will be included in the record at this point.

STATEMENT OF DAVID B. SMITH, PRESIDENT, U.S. MARINE SAFETY ASSOCIATION

Mr. SMITH. Thank you, Mr. Chairman.

Good morning. It is a pleasure to appear before this distinguished subcommittee today and to discuss proposed changes to the

regulations affecting the United States shipbuilding industry and its operators.

I am speaking here today as President of the United States Marine Safety Association. The USMSA consists of more than 145 companies and marine safety professionals who are involved in either the design and/or manufacture of marine safety equipment or provide training and other professional services specifically in the field of marine safety.

The Association is dedicated to promoting the highest possible marine safety standards and creating widespread awareness in the use of marine safety equipment.

We understand that the Subcommittee on Coast Guard and Navigation may be considering a change to 46 USC 3306(b) to include the language, and I quote:

The Secretary may accept approvals of fire and life safety equipment and materials issued by foreign governments which the Secretary determines utilize design and testing standards that meet the requirements of the International Convention for the Safety of Life at Sea, Chapters II/2 and III and their associated International Maritime Organization guidance documents.

For the record, please let me state that the members of this Association are supportive of the initiatives of this committee and the United States Coast Guard. We recognize the value to our industry in removing unnecessary barriers to competitive shipbuilding in the United States. Our members and industry can only benefit from these efforts.

However, in reference to revising subsection (b), we strongly urge the committee to accept the following proposed amendment to this subsection, and I quote:

"Abandon-ship survival equipment subject to the regulation under this section may not be used on any vessel without prior approval as prescribed by regulation. The Secretary may accept approvals of other equipment and materials issued by foreign governments which the Secretary determines utilize design and testing standards that meet the requirements of the International Convention for the Safety of Life at Sea, Chapters II/2 and III and their associated International Maritime Organization guidance documents."

Over the years, the United States Coast Guard has interpreted the SOLAS rules to the very highest standards in order to protect the American public. After each major tragedy, boards of inquiry are introduced to investigate and review existing regulations and provide their recommendations for better safety systems, products or rules.

These recommendations are reflected in USCG regulations that exceed the SOLAS minimums for abandonment lifesaving equipment. Our standards are intended to save lives of American mariners in the most hazardous of situations.

The United States Coast Guard and we in industry have seen many instances of equipment with approvals by foreign governments which neither meets the letter nor the intent of SOLAS. In many instances, this equipment appears to be approved to satisfy a regulatory inconvenience or bottom line.

The United States Coast Guard approved equipment is not designed to save regulators or accountants. It is designed and manufactured to save sailors whose lives are at risk.

There are many areas where SOLAS is silent. In the case of inflatable life rafts there are no standards for fabric. The current United States Coast Guard fabric standard was developed in conjunction manufacturers from France, England and Denmark, as well as domestic manufacturers. SOLAS would allow life rafts to be made with materials far below United States Coast Guard standards and known to be unreliable in critical lifesaving applications.

If this committee decides that U.S. sailors should have inferior equipment, it not only jeopardizes those sailors, it jeopardizes the U.S. manufacturers and foreign manufacturers from Germany, Japan, Netherlands, Norway, Sweden and others who have decided to build equipment to United States Coast Guard standards. We are eager to compete in a global market but not at the cost of lower standards.

In closing, I would like to thank you and other Members of this distinguished subcommittee for allowing me to speak before you this morning. I hope this subcommittee will show its continued support for the American sailor by assuring that the quality of abandon-ship survival equipment is not compromised. When all other shipboard systems fail, the equipment we are discussing today must always work without fail.

I would be happy to answer any questions at this time.

Mr. LANCASTER. Thank you for your testimony.

[The statement of Mr. Smith may be found at end of hearing.]

Mr. LANCASTER. I will reserve my questions until after other Members of the subcommittee have had an opportunity to ask their questions. I will call first on the Ranking Member, Mr. Coble, for his questions.

Mr. COBLE. Thank you, Mr. Chairman.

Thank you, gentlemen, for your appearance today and your testimony.

Admiral, you indicate in your written testimony—and this may well be subject to interpretation; I think it is because of some variance from the testimony—that it is your belief that the present legal structure permits reform of U.S. vessel construction and inspection standards without legislation. Without legislative changes, Admiral, do you have an opinion as to how long regulatory changes would take to become effective?

Vice Admiral HENN. Yes, sir. We see that they can be done within a year's timeframe. But the point here is that we don't have to wait a year. Using the equivalency provisions already in the regulations, we can permit alternatives to be used which give the equivalent level of safety presently required by the regulations. And I pointed out there is an American shipyard, and an American owner who is taking advantage of those today.

Secretary Peña in his statement—or in his press release—has indicated the voluntary regime was put in place because of the necessity for immediate relief. Those people who choose to do things smartly, to engineer up front, to take advantage of the equivalencies can build a safer ship, can build a U.S. flag ship in a U.S. shipyard for basically no difference in cost, sir.

Mr. COBLE. So you think a timely schedule could be realized without legislation?

Vice Admiral HENN. Yes, sir, I do. That will get us 90 percent of the way there. But I think in all of these things it is best to institutionalize in legislation and regulation. However, we could get 90 percent of the way there today. And we have, in fact, owners and shipyards that are taking advantage of that right now.

Mr. COBLE. Admiral, in extending the timeframe of inspecting large merchant vessels from two to five years, do you see any compromising of safety features?

Vice Admiral HENN. No, sir, I don't, and let me explain that if I could. First of all, you have got to recognize the United States is number one when it comes to maritime safety and environmental protection. The rest of the world salivates when they look at the United States and says we wish we could do it the way the United States does it.

When I say the rest of the world, I am talking now on the more developed countries. We recognize there are flag states out there. We recognize there are classification societies out there who play the game and do not meet international standards. They say they are on one hand, but they are not on the other.

What we see is that, using the international regime as it is written in the international treaties, we can adjust our inspection frequency. We can adjust, using international standards which are basically the U.S. standards anyway. We can move to that, and we are not in any way going to degrade safety.

Part of how we get there is using additional resources of some of the better classification societies, and, sir, I would tell you that there is only a handful, at most, of better classification societies to assist us in that effort.

Initially, we have moved further with the American Bureau of Shipping. We look to move further with some other classification societies such as DNV which will augment our inspection capabilities. But the Coast Guard will always maintain a robust oversight program of not only the classification societies but of the owners themselves.

I would also tell you that there has been mentioned here that some view—particularly some of our liner folks—view the need to go foreign based upon the fact that they can get a cheaper ship. Yes, they can get a cheaper ship, sir. Possibly, although we don't totally agree with that.

But I have to tell you, standards are not the only thing. Standards are one part of the picture. Enforcement is the other part of the picture. And you can build foreign, and you can foreign flag, but due to the efforts of the United States, those foreign flag countries are going to be doing a better enforcement and inspection regime than in the past. The United States is requiring that.

And so the cost that some of the owners are avoiding due to reasonable inspection by running to a foreign-flag is not going to be there because others are going to do it the way the United States is doing it. And we are pushing that, and we will continue to push that. And indeed, now we have the rest of the world joining us, sir.

Mr. COBLE. Thank you, Admiral.

Mr. Pentimonti and others or Mr. Nichols or Alario, what are the primary stumbling blocks, for want of a better way of saying it, between your industry and the Coast Guard in attempting to reform maritime regulations? Any stumbling blocks that we can help, perhaps, assuage or remedy?

Mr. PENTIMONTI. Well, as I testified, there were, you know, a huge list of issues 27 months ago that we identified in a very specific statement to the Coast Guard that we researched, Sea-Land and ourselves at American President Lines, that represented the stumbling block. And this list included a host of issues that spoke to design standards and equipment and material requirements and U.S. testing facility requirements. Just a host of issues which, when we attempt to acquire our vessels in an open world market, made a huge cost impact on getting our vessels constructed.

We have, as I testified also, recently in the past months worked on regulatory fixes that deal in large part with a number of these. And we are continuing to work with the Coast Guard to do that.

But, in general, the statement is that these issues, which in our perspective and clearly in the discussions we have had with the Coast Guard, represent no safety impacts as we start removing these hurdles that we have addressed over this past 27 months. So it was a combination, a collection, of design requirements, material equivalency and test requirements for materials and equipment that over time amounts to be a huge hurdle in the road for us to acquire vessels at a comparable cost with those countries who meet all of the international standards and requirements and bringing those vessels into this country for trading.

Ninety-five percent of the trade in this country is borne on foreign-flag vessels which meet all of the international requirements. So it was aligning the Coast Guard's design and material and testing standards to those that have been developed in the international standards.

Mr. COBLE. Gentlemen, you all want to jump into this?

Mr. SMITH. I guess I would like to add to our statement that our Association (USMSA) is primarily focused on major survival equipment used in the worst possible conditions; that is, when everything else fails, the ship is going to go down and the sailors are forced to abandon ship. We have been working very closely with the Admiral's staff in coming up with new specifications and new requirements, and changes to existing standards and regulations, that have improved the reliability standards for the products and reduced cost.

I believe the cooperation we have formed, and have been working on over the past couple of years, has been very beneficial to the objectives of this committee.

Today, for example, when you look at life rafts—if you put two 25-man life rafts on one of these ships, which is a frequent complement, the cost difference between today's U.S. Coast Guard approved life raft versus a SOLAS approved life raft is less than $2,000 per raft or $5,000 per ship. This can be the cost difference between life and death.

In conclusion I believe that many of the things that the Coast Guard is doing today are definitely being focused toward the objec-

tives of this committee, and the Association is working very closely with the Coast Guard in accomplishing those objectives.

Mr. NICHOLS. Mr. Chairman, the PVA, the Passenger Vessel Association, is well-pleased with the communication that is currently taking place with the U.S. Coast Guard. What we would like is more of the same. We want more involvement in the development of proposed regulation, as well as review of the final form of those regulations without any fear, from the Coast Guard for involvement in ex parte communication.

Mr. ALARIO. Thank you, Mr. Coble.

Basically, my observation is that the Coast Guard and OMSA, have struggled for many years with the enormously complex problem of converting the offshore marine service industry from utilization of one standard of measurement to the ITC, that is, the International Tonnage Convention.

But the ramifications are deep, and they are complicated. They are innumerable. Reconciliation of the two measurement systems is not necessarily easy or consistent. So, therefore, because of the complex nature of that problem, an overall general resolution has either been unattainable up to this point, or repeatedly postponed, or even avoided.

There is no direct correlation in the formula of the measurement under one system and the other. However, in our case, I am happy to say that the more obvious and problematical ramifications have matured. They have been identified. And the Coast Guard and we have sat down and talked about them. We are addressing them now with specific legislative language which is technical in nature and minor in nature, but critical.

And these decisions, which must be made now as a practical matter, can be taken care of very easily in my opinion, and I believe, as I have said before, that the Coast Guard and we are headed in the same direction with the committee, I hope, to be able to take care of our major problems.

Mr. COBLE. Thank you, gentlemen.

Mr. Chairman, if I may, one very quick question. I realize that time is elapsing here.

Mr. Pentimonti, this is a hypothetical question. There are many factors other than U.S. standards which make a vessel more expensive to construct in a U.S. shipyard. These factors involve foreign subsidies, lower foreign wage scales, et cetera. If your industry and the Coast Guard is successful in equalizing U.S. and international standards, would APL be able to begin building vessels in U.S. shipyards, given the other cost considerations?

Mr. PENTIMONTI. Not to the knowledge that we have today, Mr. Coble.

The Coast Guard issues really are an issue that represent a higher cost if we were to fly a U.S.-flag on our vessels, whether they are built in U.S. or foreign yards. The issues as to whether or not the U.S. shipyards could compete with the world market on building container ships which serve our interests has been something which has not been demonstrated the past. So the issue of the Coast Guard regulations and getting to a solution to those would not, in and of itself, be the only issue that would represent

problems which we have foreseen and seen in the past in building ships in U.S. yards.

Mr. COBLE. Thank you gentlemen.

Thank you, Mr. Chairman.

Mr. LANCASTER. Thank you, Mr. Chairman.

Mr. Pickett.

Mr. PICKETT. Thank you, Mr. Chairman.

Admiral Henn, as I understand your remarks, you seem to believe that what the Coast Guard requires is not that much different from international standards and that it does not add a substantial additional amount to the construction of a ship. Is that a fair summary?

Vice Admiral HENN. That is absolutely correct, sir.

Mr. PICKETT. And, Mr. Pentimonti, I hear that you have a different view of the Coast Guard requirements, and you apparently do believe that to meet those requirements it adds additional cost to construct a ship in a U.S. or even in a foreign shipyard.

Mr. PENTIMONTI. That is correct. The use of the existing Coast Guard regulations, which we have even reviewed with the Coast Guard personnel, have shown that both for Sea-Land and for APL, on vessels which we are building today, if we were to use the existing requirements that the Coast Guard has and regulations, that, in fact, it would cost a significant amount more, up to $10 million, to build the Sea-Land vessels that are currently being constructed in Japan today.

Mr. PICKETT. If this committee is going to be able to deal with this issue it seems that we are going to need to think more about the specifics because in one case we are being told that there is no problem and in your case you are telling us that indeed there is a problem. I think if we are going to look at a legislative remedy we need the specifics of why there is a problem and what legislative remedy may be appropriate to deal with it.

Vice Admiral HENN. Sir, I think maybe I can bring the two sides together.

If you look at existing regulations as they are now, Coast Guard regulations, there is a cost difference. As I pointed out, Secretary Peña will say in a news release today that he has had the Coast Guard put a voluntary regime in place through the use of equivalencies that are already in Coast Guard regulations.

So if you take Sea-Land's approach and say I am going to go to this and look at only the written regulations and not take advantage of the equivalency issues and if you take the monkey-see, monkey-do approach, today, yes, you can come up with a $10 million difference.

If you take the more enlightened approach of what a current American shipyard and a current U.S. operator is doing, I am going to use these permissible legal equivalents to their fullest, you come up with a delta that is basically nonexistent.

Sea-Land, APL made decisions, a year, two years ago, to build foreign. They made those decisions. They did not exercise the equivalences. I cannot fix that.

However, I can tell you there is not a $10 million delta per ship. I made that point before. I made it clear, if we can't get the delta

down to $100,000 per ship, than any of us involved in this whole operation ought to be fired.

So the point is you can do it smart or you can do it not so smart. If you do it smart, you save a lot of money. You do away with the delta. You do it not so smart, you end up costing yourself a lot more money, obviously, since a foreign shipyard is not going to say they can build to U.S. requirements without increased cost. It is not in their best interest. It just creates them additional headaches to try and use another regime when they can stay with the international regime that is basically the same as the U.S., but there are some outs, and they use those outs to their best advantage.

So, this is the whole thing that Sea-Land, APL, Coast Guard, not just those three, but about 15 other companies, including the tanker groups, the bulker groups, have been working on for the past year.

And again, I leave you with the thought, you can do it smart or not so smart. Costs you if you do it not so smart.

Mr. PICKETT. What about the cost and time element of going through this process of finding out what alternatives are available and getting the necessary approvals? What kind of costs are involved there?

Vice Admiral HENN. Sir, if we went back as much as two years ago, definitely 10 years ago, the plan review process for a new large vessel took 18 months to get through—the back and forth transmittal of plans, letters, and plans being returned for revision. We have instituted a new process over the past two years. It is called the tiger team approach. This has been offered to Sea-Land, and, in fact, Avondale shipyard is using it and in a matter of four weeks of work we can have the plan review done.

The only letter exchanged is the approval letter. That process is undergoing right now.

What are the costs? I can't give you the exact figure, but certainly there is a large increase in cost, not only to the owners, to the shipyard, but for the Coast Guard of having something extended over an 18-month period. You bring it down to about a month, I would say that whatever that delta is, and we are probably talking on the order of maybe as much as a million dollars. You reduced by 90 percent or more.

That is a new process. Again, we are using it. But these deltas we talked about of $10 million are just not there, sir.

Mr. PENTIMONTI. Mr. Pickett, may I answer that question?

As someone who has built U.S.-flag vessels in foreign shipyards as recently as in the late 1980's, we operated under these equivalency tests and standards, and it cost us well over $1 million per ship to do the equivalency tests and evaluation of equipment and materials to show that, in fact, they met the standards.

In addition to that, even as we stand today in our very fruitful negotiations with the Coast Guard to eliminate the design issues which are still on the books which cannot be shown to be equivalent, there still are a number of those issues in the regulations which do not go away.

What Admiral Henn said is correct. That by getting certain waivers from the Coast Guard on certain issues, we can, in fact, consider to eliminate or to reduce, rather, that $10 million number.

But I still submit that to do the equivalencies and the engineering necessary and to accommodate the regulations which they are still not willing to reduce, there is a substantial difference in the cost of building those vessels.

While we applaud the effort to make the process more simple, we still need to find ways to take the vessels which we are building to international standards which meet those requirements and bring them into the United States. If they are allowed to operate in this country as meeting those international requirements and SOLAS convention requirements, we believe strongly that that should set the basis upon which we test our ability to build and bring ships into this country.

You know, operating on waivers and spending the money to do the equivalencies and, as I say, still having certain regulations which are still being debated as to whether or not they are to be reduced, doesn't get us to a level playing field.

Mr. PICKETT. I think I have used up my time, Mr. Chairman. I don't want to overextend here. But I appreciate very much your remarks.

Mr. LANCASTER. I think Mr. Alario wanted to comment.

Mr. ALARIO. I would like to offer an invitation, speaking for our industry. We represent the largest number of U.S. flag ships operating internationally, somewhere in the range of, like I said, over 1,000 ships. So, while our ships may not cost $100 million a piece, offshore supply do range, between $6 and $8 million. And we conclude, as it is sitting right now, under present regulations, it would be adding a cost of about a million to a million and a half per boat if we don't do something.

I have a happy solution. I suggest that the committee, and we and the Coast Guard can do something about that problem, without affecting the concerns of our friends in the other industries.

We have a problem now. It is pressing us, because we have a fleet of vessels that is fast approaching obsolescence. We have an average life expectancy of 20 years for a boat. The average age of our fleet is 15 years.

We are now on the threshold of having to replace this huge fleet. We want to do it in the U.S. under U.S.-flag. We have submitted a legislative proposal that has been well thought out, that doesn't negatively affect anybody else, in our opinion, that solves our problems, we think, along with the Coast Guard, in a very technical, minor way.

We are pressed. We have a July 18th date coming up under ITC and under the STCW very soon. We are going to London with Capt. McGowan (USCG) to talk about the ramification to the people side of the problem, licensing.

The problem is not simply what we pay to build our boats. It also involves the people who run them. There is a gap that is going to occur if we don't fix the problem with technical adjustments. That is, people who have been operating these boats for us for 15 years are not going to be able to have their sea service time counted toward their licenses because of the jump in the tonnage admeasurement system. It doesn't make any sense, and we all agree it doesn't make any sense, but that is the reality, if the problem is not addressed.

But we can fix our problem. We have got a proposal in, and we are asking for your help to get it solved.

Thank you, sir.

Mr. LANCASTER. Thank you.

Mr. Taylor.

Mr. TAYLOR. Thank you, Mr. Lancaster.

A couple of quick questions, Admiral Henn.

Mr. Alario mentioned the 500 gross ton limit. I know I few people in the offshore supply boat industry. They have also, over the years, made me aware of what they think is a lot of shenanigans that has to take place in order to fall within that, that in many instances it creates a vessel that is less safe than if you had dropped that limit and just allowed them to build the vessel the way they would like to have built it without the voids and what not.

What is the Coast Guard doing to address that? Especially since Mr. Alario very adequately pointed out that the new exploration seems to be taking place hundreds of miles offshore, not just five and ten where the original supply boats were used.

Vice Admiral HENN. Sir, we support the International Tonnage Convention, and I would have to say that these methods that are used to reduce the tonnage, that was certainly something worked out between the Coast Guard, between industry, between the government in the years past to permit that particular type of thing to develop.

I have no excuses for what we did in the past either for industry or the Coast Guard. But there is a need since the rest of the world, including the United States, has endorsed the new modifications that we need to make modifications. The crunch has come. Now let's get on and make the changes.

And I agree with you 100 percent. In making the changes we can come up with—I won't say a much safer vessel but a safer vessel were we not—to use your words—playing shenanigans with reducing the tonnage.

Mr. TAYLOR. When do you anticipate that taking place?

Vice Admiral HENN. I think we need to work on that over the next year. Mr. Alario has pointed out that they have drafted some words, but, obviously, this has to be a joint effort between the subcommittee here and the industry. And certainly the Coast Guard would be very supportive in participating in that, sir.

Mr. TAYLOR. So you don't have any kind of a deadline?

Vice Admiral HENN. Sir, the deadlines are there internationally. We are faced with 1994 being the big year. I think that we can sit back and do nothing and have the industry faced with a lot of problems or we, I think, the three principals involved: the industry, Congress, and the administration, can move us quickly, as all three of us, in partnership, want to move.

Mr. TAYLOR. If I get a call today from John Laborde at Tidewater Marine and he says I am anticipating buying a new fleet of offshore supply vessels and I am curious as to whether there will be a change in the guidelines, and I say, yes, and he says, good. When? This is how you and I talk, but, unfortunately, it is not how the private sector talks. What should I tell Mr. Laborde?

Vice Admiral HENN. Mr. Laborde is represented here by Mr. Alario. It is how quickly the Congress and the Coast Guard and the industry choose to work on this. We have the luxury to set the deadline. How quickly do we want to move on this issue? We are ready to move on it now.

Mr. ALARIO. Mr. Taylor, I believe that—to take some of the pressure off of Admiral Henn—we have been working at the middle management and the higher levels at the Coast Guard and here in the committee. As a matter of fact, we had meetings here as recently as yesterday to try to devise the language that we think will take care of the immediate critical points. And I believe, hopefully—and I have been working with some of Mr. Laborde's people as well we have the solution. This is what I was referring to earlier—that we have been working with Mr. Adams of Mr. Tauzin's staff.

I am here actually, also, to bring you up to speed, and a couple of other people who need to look at a finished product, which I now have. I didn't want to talk generally with you before. We have a specific proposal which I gave to the Coast Guard. We have a specific proposal into the committee. I believe we are on the verge of solving the majority of our problems with reference to this issue.

Mr. TAYLOR. For my information, will there continue to be a limit on gross tonnage?

Mr. ALARIO. If the changes that we are proposing are approved in the final draft with the Coast Guard, which I anticipate, because we have already talked and agreed verbally on most of the points, and if we can agree with the way the language is to be placed into a legislative package with the full committee and the subcommittee, I believe we can do this in a matter of weeks or months rather than a year.

So it is a matter of everybody now taking a look at the specific proposal we have and judging it on its merit, and seeing that the discretion is there to solve the problem.

Mr. TAYLOR. Again, for no other information than my own, would there continue to be some element on gross tonnage or is that no longer necessary?

Mr. ALARIO. It would not be necessary any longer. We would build the boat under the unimpeded ITC tonnage system, and the option would be there for an owner to do what he wished without compromising safety.

Mr. TAYLOR. Admiral, there was a question in the staff bulletin—and, again, I would have to agree that there does not seem to be enough reliance on the American Bureau of Shipping by the Coast Guard. I would think that if your money is tight, and obviously it is, that they are the ones who the insurers turn around and ask, is the vessel safe? Should I insure the vessel?

Why not a greater reliance on the ABS?

Vice Admiral HENN. Let me answer it in two parts.

First of all, I think we all recall the 1980's where every classification society in the world was busily prostituting themselves professionally because the economy was so bad and vessels were being switched from one class to the another, whoever could get the best deal, dollar-wise.

I think that we have seen since the 1980's that the classification societies realize that not only were the insurers getting fed up with that, but that, in general, they were losing a lot of their prestige. They had lost a good bit of their technical capabilities, and they had lost a good bit of their surveying capabilities.

The International Association of Classification Societies has made a determined effort over the past few years to correct that. I think that the major classification societies, such as the American Bureau of Shipping, Det Norske Veritas and others have made an effort to correct the wrongs of the past.

I have to tell you, sir, that other flag states are looking to do from a government viewpoint what the United States Coast Guard is doing. They recognize classification societies have a very important role. Many of these other countries have abdicated their responsibilities, their governmental responsibilities, to the classification societies and have found themselves behind the eight ball.

We are looking—and have during the maritime regulatory reform—looked to do increased things with the American Bureau of Shipping, so we have already moved there. We are also looking to do the same—something very similar with the Det Norske Veritas and other classification societies that are proving themselves to be professionally competent.

So your point is well taken. There is an international part of that to your question as well as the domestic part.

ABS and the Coast Guard have been working in a partnership for over 15 years. I was part of the group that put together the third party delegation to the American Bureau of Shipping back in the early 1980's. Frankly, as I pointed out in the history about the economy and the downturn and the problems that the classification societies had, we could not do anything further in the 1980's because of the problems that the classification societies were having.

Certainly, with ABS and a couple of others, we can move forward now. Obviously, we have moved forward smartly with ABS, and a regime is in place now under a voluntary regime to use the American Bureau of Shipping much more than we have in the past.

Mr. TAYLOR. For the last question, if you don't mind, Mr. Chairman. There is in Congress what I kind of jokingly refer to as the 60 Minute Syndrome which, for fear of the 60 Minutes camera walking through any door around here, that we go to such extremes not to have the perception of impropriety.

I know, having spent a little time in your outfit, that it was called Not on My Watch Syndrome. And even on the small boats I remember having to check all 200 or 300 items before getting underway on a 32-foot utility boat.

And I hear talk from people in the industry how that has grown to make us less competitive. How in the case of this gentleman it is about $10 million between a domestic-built boat and a foreign-built boat. Between Mr. Alario, how they feel they have more inspections than they have to. And I don't think that really does any of us any favors.

I mean, if the idea is make them safe and we run them off, we have not made them any safer.

And, quite honestly, I realize that a lot of your problem comes from us. That if there is a disaster the first thing that happens if

there is an accident is that this committee is going to say, Coast Guard, why did you let this happen? It is a tough row to hoe.

But how can we meet a little bit close to the middle as far as these regulations so that we are not taking ourselves out of the game? Obviously, one way of doing it is to close some of the loopholes and allow people to go foreign flag and still enjoy the benefits of our market. And I would certainly welcome any suggestions along those lines. I don't think we need to solely limit ourselves to lowering our standards.

Are you—in your conversations with Mr. Alario and with the steamship industry, are you looking at both ends of that equation?

Vice Admiral HENN. Absolutely. With the Eighth Coast Guard District, we have worked closely with OMSA as far as streamlining the inspection program, and Mr. Alario just pointed out that again. Obviously, there is a need to do that and, obviously, we have done so.

To answer your question specifically, what about in the international regime, well, over the past five years, the United States, led by the Coast Guard at IMO, has put a regime in place that never existed before, and you couldn't even talk about it 10 years ago because you would not get any support internationally.

But other flag states have said—and I am talking now primarily about the developed countries—and that is about 30 of us, anyway—they are saying that we are tired of flag states not carrying out their responsibilities. We want flag states to do enforcement, the flag state enforcement that is required under the international treaties.

Within IMO during the last assembly we had three landmark resolutions put forward, one dealing with requirements for a classification society to act on behalf of a flag state. No longer can you be a substandard class society acting on behalf of a flag state.

We have also come forward with requirements for flag states. What are their minimum requirements that they must do to meet international treaties. And we have also put out directives on what a port state should do. So we are coming at it definitely from both ends.

Domestically, we are working with our own high-quality, U.S.-flag operators to bring our inspection regime in line with the international regime.

And, internationally, we are making those flag states who turn their head to the requirements, international requirements, stand up to their responsibilities. And those who don't, we turn the spotlight on them.

To give you an example, so far this year there have been 107 interventions by the Coast Guard under the Safety of Life at Sea Convention on foreign-flag vessels coming to this port, owners where the flag states didn't carry out their responsibilities. Ninety-three of those were freight vessels, cargo vessels, container ships; 13 were tankers; and one was a passenger vessel—all flying foreign flags.

The world is on notice not just from the United States but from a number of other countries saying it ain't gonna be like that anymore. You are going to carry out your responsibilities, and if you

don't carry them out you are going to pay the penalty for not doing it.

Mr. TAYLOR. Has the Coast Guard ever taken the step of revoking this certification, as far as we are concerned, of any nation? I am searching for the words. But have you ever said, country X, you are running a sham operation. You are taking the money, and you can't have the certificate without the inspection, and we are going to across the board cancel your certification as far as coming into this country?

Vice Admiral HENN. No, we have not done that, and that is not under the international regime. What we have done—and we submitted this report to Congress through the Department of Transportation just in the last month or so—we have put together a regime that identifies owners who operate substandard vessels and class societies who classify substandard vessels and flag states who flag substandard vessels.

And we have a regime where, depending on whether you are a substandard owner, class society or flag state, your vessel is targeted when it comes into any United States port for a rigorous inspection starting from you can come in, but you can't do cargo operations until you are inspected, all the way up to you can't come in until you are inspected at sea by the Coast Guard.

Indeed, Congress—this subcommittee, was instrumental in saying we looked at the Coast Guard's ad hoc program which it has been doing for 20 years. We want you to formalize that. And we have formalized it.

So, to answer your question, no, we don't say country X, you can't send any of your ships here. But we have said—and we identified 15 countries—if you have a ship that is flying your flag and it comes into one of our ports we are going to be marking you for additional Coast Guard inspections. So we are coming at it from that direction.

Mr. LANCASTER. Mr. Barlow.

Mr. BARLOW. No questions.

Mr. LANCASTER. Mr. Hughes.

Mr. HUGHES. Thank you, Mr. Chairman.

And, Admiral Henn, let me join with my colleagues in offering my congratulations on your promotion to Vice Commandant. And we wish you very well in your career.

I am just curious, what do you do when you find that they do not pass inspection? Just as a follow-up, what are your remedies?

Vice Admiral HENN. First of all, if it is a Safety of Life at Sea violation, we detain the vessel. Now, if it is at sea, if we board it at sea because it has been targeted as a bad boy, we just issue an order, you shall not come into our port. We don't care where you go, but you are not coming into a United States port.

If it is one that we have let come in and we find that there are violations of SOLAS, we can do one of two things. We can issue a Captain of the Port detention, which means if these are minor violations correct them before you leave our port.

If it is a major violation such as lifeboats or the fire main system, or a major violation such as the steering system, we hold the vessel at the dock and will not let them do cargo operations until correc-

tions are made or we will not let them leave the dock until corrections are made.

We notify the International Maritime Organization that an intervention has been issued, and that is published on an annual basis for the entire world. We notify our State Department, which goes to the foreign country who say, hey, one of your flag vessels was intervened. And we also go to the classification society, notify them that the vessel was intervened on, whether it is a foreign or U.S. classification society, to present themselves at the vessel and to ensure that the repairs are made.

And, obviously, the penalty that is paid runs the full gamut from being issued a civil penalty as a follow-up action and then, of course, just the lost time and the cost of the vessel laying alongside of the pier for whatever period.

Mr. HUGHES. So you have any number of remedies. You have a great deal of flexibility.

Vice Admiral HENN. Yes, sir, and we apply them across the board.

Mr. HUGHES. I gather that the Coast Guard regulatory reform group has been well received. I noted the statement that was submitted by Mr. Stocker that he refers to that. And I gather there is a general feeling that we are moving in the right direction. The Coast Guard is attempting to address the myriad of problems we have had over the years with standards. There is some effort to accept foreign equipment, for instance, that meets standards.

But I noted in the statement by Mr. Nichols that one of the problems that has developed and apparently appears to present some concern is that, in the past, because of the ex parte rules, when we reach that stage of the process where the Coast Guard has opened it up for comment and there has been public comment that there is not that give and take consultation that is important, and that there should be more of that consultation buffering the formal rulemaking process. Is that a legitimate criticism, Admiral?

Vice Admiral HENN. It is legitimate criticism. I think that we can say that it has been legitimate up until the past year or two.

Frankly, due to some of the changes within our department, and to some changes within our Coast Guard from our legal counsels, we have been provided more flexibility.

And one of the things that this Secretary and his staff have made it clear to us in the Coast Guard, do a lot more of hearings before you go into rulemaking. Do—get advice and input before you go into the rulemaking process, because your hands are not tied at that point.

Mr. HUGHES. Well, it is very difficult to deal with the ex parte rules and have that kind of give and take. It is much more structured and much more limited and a less satisfactory way of trying to address concerns. You miss something.

Vice Admiral HENN. Absolutely, and that is why we want to do more homework up front and once we go into rulemaking we want to see that 97 percent of the issues have been resolved. And that once you get into an ex parte situation that you are dealing with dotting I's and crossing T's, not major issues that in any way impede industry and shipbuilding.

Mr. HUGHES. Any other panelists want to comment on that? OK.

Let me ask you, are your rules, the Coast Guard rules, flexible enough to accommodate the changes in technology and materials that we use in vessels today?

Vice Admiral HENN. Absolutely. The equivalency provisions are there.

I have to tell you that, having worked this since I was a lieutenant commander, over the past 25 years since then, that the Coast Guard's approach to how far we go with equivalencies has changed markedly.

Today we do things with equivalencies that when I was a lieutenant commander that we in the Coast Guard would have thought was heresy. It reflects the changing world, not only here at home but abroad. It reflects the changes made in the International Maritime Organization.

And before I stop this answer I would have to point out, too, that it is folks like APL and Sea-Land and many of the tanker owners—whether it be Liberty, some of the others, our U.S. shipbuilders, industry groups such as OMSA—who have really worked with us and taken us to the point where it is much easier to work with equivalencies.

I think we are back to a stage where a handshake—you can make a decision based upon a handshake. All you have to do is ensure that when you give that handshake that what you are agreeing on is legal, ethical and fair. But anything that is legal, ethical and fair, we will do it in a heartbeat, sir.

Mr. HUGHES. Mr. Nichols.

Mr. ALARIO. I am sorry, I am Bob Alario.

Mr. HUGHES. I am sorry.

Mr. ALARIO. That is OK.

I agree with the Admiral with the exception that there are some things, as in our case, in this instance, that must be addressed with a statutory adjustment, a technical correction by virtue of a reference, what have you.

This is true in this case. Even in the statutory language that we are proposing, we reiterate that in prescribing regulations for offshore supply vessels or the class of vessel that we are now proposing to establish under the international tonnage standards, the Secretary shall consider the characteristics, the nature of service, et cetera, giving the Coast Guard regulatory discretion to take into account certain technological differences. Nevertheless, there are still technical statutory adjustments that have to be made.

Not all of the problems that we are having are with respect to design or construction. Some of the problems that we are dealing with, in terms of our own issue with the Coast Guard and this committee, has to do with the people, the crews and the licenses for those crews.

The change that we are facing in July is going to have an impact beyond the design and construction of these ships. It has an impact with respect to which people, with which license, will be allowed to run the ships. And there is no way to get from A to B under the existing law without a minor change in favor of the Coast Guard, which we have proposed, to give them the expanded authority to accommodate that.

So with respect to that minor correction, some statutory change is required. They have broad regulatory discretion to deal with certain technological issues, but not all cab be done without the statutory authority.

Mr. HUGHES. That is part of our problem in giving them expanded jurisdiction without the money to carry those functions out.

I noted in Mr. Nichols' statement, Admiral, that there is complaint about the certificates of inspection that were pulled without explanation after the El Toro, the second tragedy. There are some people saying that there is a bias against wooden hulls. Any substance to that?

Vice Admiral HENN. Well, I don't think there is any bias in the Coast Guard against wooden hulls. And, as soon as I say that, I have got to talk out of the other side of my mouth and say that we have had a regime in place for about 20 years that looked at the age of a wooden vessel and said, as the vessel got older, the degree of inspection increased. So that has been there.

When the El Toro II occurred, we said, wait a minute. Is our regime that we have had in place and we have been very comfortable with for 20 years, have we gone outside the envelope? Have our inspectors become less careful in their inspections? Is there something that we are missing? Has the age of the vessels when they go from 30 years to 40 years—is there a real problem there and do we need to focus on that?

So we went out over about a six-month period of inspecting every wooden vessel. Obviously, there were some sister vessels to the El Toro II which we pulled the certificates on, because, well, we should have pulled the certificates on those. There were some other instances where certificates were pulled that didn't need to be pulled.

But I have to tell you it was in the spirit of focusing on a problem where we thought that we had gone outside the envelope. I am happy to report that, except in a few cases, we found that we are not outside the envelope. We strengthened the guidance to our field. We have increased our training. We needed to do a bit of that, but no, there is no vendetta against the owners of wooden hulled fishing vessels, party vessels, whatever. It was merely an effort to respond to what we saw as a critical safety issue.

Mr. HUGHES. Mr. Chairman, I don't have any further questions.

I just want to say that I would not want to sacrifice safety for our sailors. After all, that is the reason why we are all interested in safety.

But I think that the direction that we are going in attempting to look at international standards and determining whether or not we are providing additional burdens on our yards is a legitimate concern.

When countries like Finland, which has a higher wage than we do in this country, can build unsubsidized ships, that persuades me with our tremendous ability, our work ethic, that we, too, can compete and need to do so.

And as we replace small passenger vessel ships which are nearing the time that they have to be retired there is no reason in the world why we shouldn't be building those ships in our yards and be competitive.

And we do have to look at a whole host of things. Our standards—we want to be safe, but we don't want to be overly burdensome. We want to be competitive. We need to look at our manning requirements such as has been suggested here today. And if we want to compete—and we should compete.

The fact that in Helsinki they are building six cruise ships for the Carnival line that will service our population is shameful on us. There is no reason why we can't be competitive.

Thank you. Thank you Mr. Chairman.

Mr. LANCASTER. Thank you, Mr. Hughes.

My colleagues have done such a good job of covering the questions that I have very little to ask.

But I am curious with regard to this question with regard to new technologies and materials, whether or not there are expenses to using the equivalencies that continue to be an impediment to using this flexibility that you have testified to, Admiral Henn.

I don't believe now which of the witnesses talked about the problems of equivalencies—it may have been Mr. Pentimonti—but are there expenses and impediments to using equivalencies that present problems in this flexibility that you indicate, Admiral Henn, is available? And if any member of the panel would like to respond to that, that would be appreciated.

Vice Admiral HENN. I would be glad to take the lead on it, sir.

I think there are two issues. There is the innovative vessels, the smaller vessels which we are building with fiberglass. We are using new materials and composites. Certainly, within the industry and in the Coast Guard we have the ability to approve those new materials not even going to equivalencies.

We have the depth of experience within the Coast Guard. We have the regime that has been in place for decades as far as using consensus standards, and we have hundreds of consensus standards that we use, industry consensus standards on material.

And, in addition to that, we participate with the American Society of Testing and Materials, as well as the International Standards Organization, in acceptance of marine materials. So that is not a problem. We have done that for years.

In the case of what Sea-Land had pointed out, again, when you use equivalencies it depends how you go at it. If you get a hired gun to do your equivalencies for you, it depends on how smart a hired gun you pick and whether the person has the background and the knowledge to work the equivalency through quickly or whether it is someone who has to then subcontract out and spend a good bit of time and gives you a sizable bill after the fact to establish equivalency.

Most of us, myself and my staff, when we are talking material equivalency such as Sea-Land pointed out, we have done those over lunch while we are eating our sandwich at our desk and established material equivalency. It is really how you go at it. You can go at it smartly or not so smartly. If you go at it smartly, you can save a lot of money. If you choose not to do that, you can spend a lot of money spinning your wheels establishing an equivalency and putting a lot more effort into it than is needed, sir.

Mr. LANCASTER. Mr. Pentimonti, did you want to respond to that?

Mr. PENTIMONTI. Yes, sir. As I mentioned, we have gone through this process, and we would like to think we went through it smartly at American President Lines in building some large container ships in Germany. And it did cost us nearly a million dollars a ship to show equivalency for certain materials and other design changes to the standard requirements.

But what Admiral Henn says is correct. And we are looking at the ability to, on a much broader scope, allow for the use of materials and equipment that are manufactured in other countries in our design and building of our ships on the basis that they are approved through a smart process using the classification societies which they approve and using support from countries which are acceptable to the Coast Guard.

So I think under a smart and newly conceived processes we can get to the point where using an equivalent regime can be done in, you know, in a speedy and cost-free environment. But that which we have been operating in in the past has not been cost free nor efficient.

Mr. LANCASTER. Does anyone else wish to comment on that?

Mr. NICHOLS. Yes, I do, Mr. Chairman. In the small passenger vessel area, the equivalent area of safety has worked quite well. And we found that there is, in recent years, a great deal of common sense, logic and reasoning that is used in making those determinations. So whereas in past years we found it very difficult to accomplish that, the environment is very good for it now.

Mr. LANCASTER. Admiral Henn, you have alluded to this, and others perhaps as well, that the Secretary today will be making an announcement which I assume will set forth the progress that has been made in regulatory reform.

First of all, I would like to read in the record at this point his statement made at that news conference because I think it would be important to the record that is developed here for this hearing.

But, apparently, from comments made by others on the panel and perhaps you even as well, this is not a completion of the process but is simply a report on progress. I wonder if there are additional regulatory reform initiatives that will be pursued and, if so, when they might be completed.

And, secondly, you have indicated that, while most of this can be implemented without statutory changes, that it would be nice to have those changes codified in statute and that perhaps some yet to be made will require statutory change even to be implemented. I wonder if you could give us some sort of time line on when the regulatory reform process will be completed and when we might have the statutory language for consideration before the committee.

Vice Admiral HENN. Sir, I see no impediment to completing it within the next year. In fact, in the news release that Secretary Peña will release today, he indicates there are three regulatory areas and at least one legislative proposal that is needed.

But, again, sir, we are so far down the pike on this that we are not beating the bushes looking for how to put it all together. I think it is a matter of we and our industry colleagues getting together with the staff to work out any of the legislative proposals.

The regulatory projects—we have already in our working group with the APL and Sea-Land have been a part of. We have identi-

fied those things, the ones that we need to knock out, just do away with the ones that we need to provide some flexibility on, and things like that.

The other point that I would make, sir, is that although we are looking for a year to put the yellow ribbon on the entire package that, as of today, from a voluntary standpoint—a voluntary regime that is now in place—that the Department and the Coast Guard have provided for, that we are 90 percent of the way there today.

Mr. LANCASTER. I wonder if any member of the panel would like to comment on the level of progress and on the speed with which this initiative is taking place. I, for one, find a year to be an awful long time if we are going to regain the kind of competitiveness that we need to continue the flagging of these important vessels in this country.

Are we making progress at a sufficient speed to satisfy those of you who are concerned about regulatory reform? And are we, in fact, going to continue to see an erosion of flagging that could be addressed if we moved out more quickly on this process?

Mr. Alario?

Mr. ALARIO. Mr. Chairman, speaking for my industry alone, I can say that we haven't a year to wait. We can't afford to wait a year, nor can our shipyards afford to wait, because we are at a critical juncture. At this point in the design process, the placement of orders for the attrition replacement that we suggested earlier can't wait a year. We would be left behind the curve.

Two things could happen to our industry at this point. One is further disintegration of our technological edge that we have had traditionally, which is eroding. And the other is a resurgence of our edge, by allowing us to move ahead and bringing about consensus, as quickly as we can, through this committee action so that we are not prevented from jumping this wall of obstacles that is going to be arbitrarily created on July 18th, potentially.

It doesn't have to be and it is not as complicated for us, perhaps, as some of the others. As a result, we are saying, for the record, we can't wait a year. We are hopeful, and I believe confident to some extent, that what we are doing together with the Coast Guard and this committee will give us the result that we seek to begin the solution process, and at least not to have had the door slammed in our face.

There will be adjustments, perhaps. That will have to be done later, but the groundwork will have been laid, and the door will be opened. We will be headed in the right direction for the U.S.-flag and U.S.-built fleet, operating in this country, and we will be operating, as well, with our flag overseas.

Mr. PENTIMONTI. Mr. Chairman, we also in the liner industry cannot wait a year. We are building ships today. Between Sea-Land and American President Lines we have 13 ships under construction in foreign yards. If they are to play in this administration's liner maritime reform program, they need to be addressed, and we need to have solutions now.

We have been working over two years, as I have indicated in my testimony, for a maritime reform package that addresses these Coast Guard regulations. And, as Admiral Henn said, if we are a

year away, we can't wait for those regulatory changes to happen in that timeframe.

We are going to need a combination of some legislation that we ask all of you to help us with to make sure that we can address this year during this Congress those issues which allow us to bring those vessels in as we have indicated in our testimony. So we, clearly, don't have the time.

We are making progress. I would like to reemphasize what I did say in my testimony that we are, you know, going significantly over hurdles that we had in front of us. But if it is going to take a year to get the remainder of those hurdles down, we definitely need some legislative help to make that happen. Thank you.

Mr. LANCASTER. Any further comment?

If not, I would simply say to the Coast Guard and industry witnesses that I believe the consensus on this subcommittee and on the full committee is that a year is too long. That we simply need to move more quickly to protect what I think is important to this country, and that is an American flag fleet that has been and should be the pride of this Nation. And it concerns all of us to see a dramatic erosion in the presence of American flags on vessels of various kinds, both for moving cargo and passengers.

And I believe that I speak for all of my colleagues in urging, first of all, the industry cooperate fully with the reform process but that the Coast Guard move much more quickly than you have laid out for us, Admiral. We, of course have very few legislative days remaining in the session, so if action—legislative action is going to be required between now and early October, we must move very quickly.

There is, of course, a possibility that we could move early in next session in January or February to take care of matters which have been resolved over the fall and winter months. But the important thing is that we not wait a year. We simply cannot afford the continued erosion in American flag vessels. And I hope that we will also work cooperatively both at the administrative, industry and at the congressional level to see that that happens.

Does either of the counsel have questions that you wish to ask at this point or will they be submitted for the record? There may very well be questions submitted for the record, the answers to which will appear at this point in the record.

Mr. LANCASTER. I thank each of you for your participation this morning, and the meeting is adjourned.

[Whereupon, at 11:54 a.m., the Subcommittee was adjourned; and the following was submitted for the record:]

US Department
of Transportation
United States
Coast Guard

Commandant
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DEPARTMENT OF TRANSPORTATION

U.S. COAST GUARD

STATEMENT OF VICE ADMIRAL ARTHUR E. "GENE" HENN

ON DOMESTIC AND INTERNATIONAL VESSEL CONSTRUCTION

STANDARDS

BEFORE THE

COMMITTEE ON MERCHANT MARINE AND FISHERIES

SUBCOMMITTEE ON COAST GUARD AND NAVIGATION

HOUSE OF REPRESENTATIVES

JUNE 22, 1994

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
STATEMENT OF VICE ADMIRAL ARTHUR E. HENN
ON DOMESTIC AND INTERNATIONAL
VESSEL CONSTRUCTION STANDARDS
BEFORE THE
SUBCOMMITTEE ON COAST GUARD AND NAVIGATION
COMMITTEE ON MERCHANT MARINE AND FISHERIES
UNITED STATES HOUSE OF REPRESENTATIVES
JUNE 22, 1994

Thank you, Mr. Chairman. It has been a year since we last met to discuss vessel construction standards. At that time, I summarized the Coast Guard's role in the enforcement of foreign and domestic vessel construction standards and the impact they have on our maritime industry. I mentioned several initiatives that were underway with industry as well as some issues which the Coast Guard was addressing internationally as the U.S. representative to the International Maritime Organization (IMO). Much progress has been made on all fronts this past year, both internationally and domestically, and I welcome this opportunity to provide you an update. Before updating you on specific issues from last year, allow me to brief you on our Maritime Regulatory Reform efforts.

MARITIME REGULATORY REFORM

Compliance Options

Maritime Regulatory Reform (MRR) is that portion of the Maritime industry revitalization program that focuses on regulatory requirements for U.S. flag vessels. The goal is to level the playing field internationally to afford U.S. ship owners and

builders greater freedom to access global ship construction markets without reducing the level of safety. The Coast Guard is sensitive to the need to eliminate redundancies that industry experiences with regard to new construction plan approval and inspection activities. Working with the marine industry, the Coast Guard has developed a number of regulatory compliance options for demonstrating equivalence to the Code of Federal Regulations (CFR). One initiative, with the American Bureau of Shipping (ABS), will create "one stop" shopping through which owners, builders, and designers can show compliance with U.S. regulatory requirements. The program goal is to make the Coast Guard regulatory plan review and inspection program less burdensome, and more efficient for the U.S. marine industry through broader acceptance of industry and classification society standards, and a reduction of inspection and survey redundancies. Initially, the vessels eligible for this program will be deep draft tank ships, passenger ships, and cargo ships that are classed by ABS. Owners of vessels that elect to use this alternative compliance option will have plan review and surveys/tests done by ABS, using the Safety of Life at Sea Convention (SOLAS), the ABS Rules for Class and a U.S. Supplement to ABS rules for guidance. The Coast Guard will conduct an inspection for certification, concentrating on verification of compliance with the above requirements by monitoring operational drills and evaluations, vice the detailed inspection of shipboard equipment and systems. The program will include oversight by the Coast Guard to ensure compliance with all applicable U.S. laws.

Coast Guard and ABS implementation documents are undergoing final approval. Initiation of a pilot program to evaluate the alternative compliance procedures is planned for the summer of 1994. The Coast Guard and ABS are currently soliciting volunteers for the pilot program. Six volunteers for the pilot program have indicated a willingness to participate and are identifying ships whose Certificates of Inspection expire during July, August, or September. A tabletop exercise will also be conducted as part of the pilot program.

A key element of this compliance option program is the U.S. Supplement to ABS rules. The CFR requirements for certain classes of vessels were compared to ABS Rules for Steel Vessels and SOLAS 74/83 to determine what guidance is needed beyond what is contained in ABS Rules and SOLAS in order to ensure an equivalent and acceptable level of safety. U.S. supplement was developed jointly with ABS and industry and is now in the final stages of its refinement. It primarily summarizes the U.S. interpretations to international treaties and conventions where they have left design details to be defined by the flag state. It also addresses critical safety concerns, which neither the international instruments nor the classification societies' requirements adequately address. The development of the U.S. Supplement to ABS rules was a cooperative effort on the part of ABS and industry, and is expected to be a comprehensive listing of essential safety requirements not embodied in SOLAS or the ABS Rules.

Industry input to the development of the U.S. Supplement to ABS rules was crucial. American President Lines (APL) and Sea-Land provided a list of regulations they recommended be changed and they volunteered to take part in three separate new construction plan review "tiger teams." This helped by providing the Coast Guard with industry-identified major cost drivers of new construction projects. This information was essential to resolving equivalency issues which have long troubled both industry and the Coast Guard. The U.S. Supplement includes provisions for ABS to determine equivalencies for foreign materials and equipment. More importantly, the Supplement references international regulations and standards wherever applicable to afford the greatest flexibility to owners and builders in accessing global markets for ship construction while assuring equivalency to U.S. Coast Guard requirements.

INTERNATIONAL ACTIVITIES UPDATE

Internationally, we have continued to work to increase the level of responsibility of ship owners and operators, flag states, and classification societies and have sought greater latitude for port states in their enforcement activities. We have fought to achieve consensus at the lowest common denominator level and have been very successful at levelling the playing field at higher safety plateaus.

Flag State Implementation

The IMO Flag State Implementation (FSI) Subcommittee, which held its first meeting in May 1993, was formed to encourage and assist flag state and port state implementation efforts. The Subcommittee developed two resolutions which were passed at the 18th IMO Assembly in November 1993: A.739(18), "Guidelines for the Authorization of Organizations Acting on Behalf of the Administration"; and A.740(18), "Interim Guidelines for Flag States." The resolutions establish guidelines for both flag states and organizations acting on their behalf. They provide recommended standards for those flag states who wish to conduct surveys and certify vessels, and standards flag states can use to authorize these tasks to be conducted by other organizations. Resolution A.739(18) was also proposed for incorporation into SOLAS at the SOLAS Conference in May 1994. As a result, the guidelines in this resolution were incorporated into SOLAS as minimum standards for organizations who are authorized to act on behalf of an administration.

At the second meeting of FSI in February 1994, the Subcommittee continued its work, developing draft guidelines on port state control inspections and casualty reporting. These and other guidelines will be completed at the third meeting of FSI in February 1995 in anticipation of adoption at the 19th Assembly.

This guidance will be extremely valuable to the Coast Guard in implementing an enhanced port state compliance and enforcement

program and equally important to the implementation of MRR programs and initiatives jointly developed by the Coast Guard and industry.

In an effort to promote the amount and quality of shared safety information and stimulate this idea throughout the international community, the Coast Guard developed the Port Safety Information eXchange (PSIX) system and introduced it at the 18th IMO Assembly in November 1993. The system is a public access data base which provides limited vessel-specific boarding and violation history, including inspection and investigation results. As a result of this initiative, IMO established a steering committee to examine the feasibility of developing a similar system, the International Ship Information Database (ISID), which would contain vessel data from participating IMO member nations. The U.S. is leading this effort by chairing this special task group.

Port State Control

The port state control program is undergoing significant changes, both domestically and internationally. Congressional initiatives have mandated national changes. In order to deal with this global problem, and to increase domestic effectiveness, the Coast Guard has initiated international changes through IMO.

The program goal is to identify and eliminate substandard foreign vessels from U.S. waters, and encourage those committed to trading with the U.S. to adopt management philosophies that

ensure compliance with accepted standards. The program pursues this goal by systematically focusing boarding efforts on high risk vessels.

Critical program changes include new boarding criteria that increase the frequency of boardings on high risk ships. Owner, classification society, and flag state are key elements of the control regime. Previously undefined terms of reference such as "substandard ship," are defined for consistent application.

Marine inspectors are being assigned to foreign freight ship boarding teams to increase the level of expertise and scope of our port-state control boardings. To maximize the effectiveness of Coast Guard boarding teams, the program strikes a balance between conducting at-sea and in-port boardings. It also aligns Coast Guard efforts with international initiatives through reliance upon a two-tiered boarding process wherein the greatest effort, and most detailed examinations, will be reserved for substandard vessels.

A comprehensive regime has been devised for the purpose of facilitating this process. This is a risk-based regime, which uses factors such as vessel flag, class, owner, age, and history to establish boarding priorities. A risk-based boarding matrix has been developed to prioritize vessel boardings. This will result in more effective utilization of Coast Guard enforcement resources in identifying potential substandard vessels calling at U.S. ports.

The international program consists of aggressive action at IMO to: (1) establish standards for flag states, as outlined in Assembly Resolution A.740(18); (2) establish standards for class societies and other organizations, as outlined in Assembly Resolution A.739(18); and (3) establish guidelines for port state control inspections, as outlined in the documents generated by the Coast Guard led correspondence group from the IMO FSI Sub-committee.

The national program consists of three initiatives: (1) increasing inspector billets, as described in our March 14, 1994 report, which we forwarded to your Committee; (2) identifying substandard vessels based on their flag, class, and owner, as outlined on our April 8, 1994 report, which we also forwarded to your committee; and (3) ensuring system accountability.

All of these actions are ongoing. Many of the new port state control billets have been filled, and all should be filled by the end of the summer of 1994.

The port state control report was submitted to Congress and copies were sent to all field units. Additional guidance was also sent to all field units. Field implementation is scheduled for Summer 1994.

The State Department notified the U.S. Embassy in each of the 15 Flag States that have been identified as having been associated

with substandard vessels for boarding by the U.S. Coast Guard. Each Embassy will notify the host Government of their appearance on the list.

The IMO initiatives are well underway. The resolutions were approved at the 18th Assembly. The port state control guidelines were submitted at the second meeting of the FSI and are being revised in a correspondence group. They will be completed at the third meeting of the FSI for submission to the 19th Assembly in 1995.

ISM Code

At the 18th IMO Assembly held in October 1993, the Assembly adopted the "International Management Code for the Safe Operation of Ships and for Pollution Prevention (ISM Code)" as Assembly Resolution A.741(18). This resolution sets international guidelines for shipboard and shore-based management systems. At the SOLAS Conference in May 1994, amendments were approved which will make compliance mandatory. IMO is currently working on guidelines for the application of the code, and they should be developed for approval at the 19th Assembly in late 1995. In the interim, member states were requested to implement the guidelines pending their coming into force internationally in 1998. The U.S. was the first member state to do so. In March 1994, the Coast Guard issued Navigation and Vessel Inspection Circular (NVIC) 2-94 to introduce the code to the industry and set policy guidance for operators of U.S. flag vessels who wish to comply

with the terms of the International Safety Management (ISM) Code voluntarily until mandatory application is approved. The U.S. currently accepts certifications by ABS, Det Norske Veritas, and Lloyds Register.

High Speed Craft Code

The High Speed Craft (HSC) Code was still under development at the IMO as of our meeting last year. The U.S. led discussions in the intersessional working group which delivered the final draft of the Code to the 37th session of the IMO Design and Equipment Subcommittee in February 1994. As you may recall, this code replaces the Dynamically Supported Craft (DSC) Code. It is a significant improvement over the DSC Code, because it provides equivalence to SOLAS and, therefore, allows for greater design flexibility for designers and builders of these novel craft. The HSC Code developed at the Design and Equipment Subcommittee was adopted as an amendment to SOLAS at the SOLAS Conference in May 1994 for implementation in 1996. This code will be the primary regulatory guideline for the certification of U.S. flag craft which meet its application criterion. Since this code was internationally developed and accepted, a level playing field now exists between foreign and domestic high speed craft markets.

SOLAS Fire Protection interpretations

Recognizing the disparity among the various flag administration interpretations of SOLAS requirements, the Coast Guard initiated a program at the IMO to identify and develop unified

interpretations of requirements in SOLAS systematically where the implementing details are left to be provided by the flag states. This was first introduced by the Coast Guard at the 1993 Fire Protection (FP) Subcommittee session and a correspondence group has worked on this issue for the past year. The group will present their initial list of unified interpretations to the annual FP Subcommittee meeting being held next week. Ultimately, this will remove differences in SOLAS interpretations among member nations and result in harmonized implementation of SOLAS requirements and retention of a level playing field.

International Standards Organizations

In keeping with our intent to move from use and application of domestic design, construction, and operation standards in favor of international consensus standards, we have regained a membership position which had been vacated for years on one of the technical committees of the International Electrotechnical Commission (IEC). The Coast Guard has long been an active member of one of the technical committees of the International Organization for Standardization (ISO). These are the two major international standards bodies and, combined with our involvement at IMO, these positions help ensure that our safety concerns are voiced at the outset in the development of requirements and standards which eventually attain international consensus and application and thus avoid unilateral action over technical or safety related differences later on.

Plastic pipe guidelines

The United States led the effort to develop internationally agreed procedures for use of plastic pipe aboard ships. The use of plastic pipe in shipboard piping systems offers shipbuilders a substantial savings in both procurement and installation costs. Ever since promulgation as internationally agreed guidelines in the form of a Maritime Safety Committee Circular, we have been promoting their application domestically as an acceptable alternative to the prescriptive requirements in the Code of Federal Regulations. Such efforts make U.S. construction more competitive with foreign shipyards without compromising safety. This past year these guidelines were adopted by the 18th IMO Assembly as an Assembly Resolution.

"Open-top" container hold fire protection standards

Following the U.S. led effort to amend the Load Line Convention to permit open-top container ships, some detailed fire safety standards were needed. These we developed unilaterally and applied as interim standards in response to the immediate need created when U.S. shipping began converting to hatchless "open-top" container hold designs; a novel design not envisioned by the existing regulations. Coast Guard engineers worked closely with Matson Navigation Company engineers and other U.S. containership companies to determine the hazards and to perform a fire risk assessment of carrying certain types of cargo in open top cargo holds. Working together, we developed a proposed standard which was presented at IMO to ensure that an equivalent measure of

safety was applied by all countries. Individuals from APL and Sea-Land were instrumental in the successful negotiations of this issue, resulting in an IMO Assembly Resolution concerning interim guidelines for open-top containerships. To date, four U.S. ships are in the process of, or scheduled for, this economical modification to employ the "open-top" design. This approach of determining appropriate safety criteria through joint Coast Guard/industry teams has proven to be a most effective means to meet industry's need for rapid response while satisfying our safety concerns and establishing policy to address new designs.

Probabilistic damage stability

As a result of a U.S. recommendation, the IMO has undertaken development of a harmonized set of probabilistic subdivision and damage stability regulations for all ship types. The existing deterministic methods allow two ships with the same factor of subdivision to differ significantly in their safety level.

Probabilistic subdivision and damage stability regulations attempt to correct some of the known deficiencies in the deterministic method. Two sets of probabilistic regulations currently exist. One set was written at IMO in 1973 for passenger ships, while the other is the recently adopted standards for dry cargo ships. These two standards form the basis for the harmonization process. This harmonization process is aimed at developing a standard method that can readily be applied to different ship types.

DOMESTIC ACTIVITIES UPDATE

Domestically we have been even more active in numerous new and ongoing initiatives focused on the MRR aspect of the Administration's overall Maritime Industry Revitalization Program.

Offshore Supply Vessel Tonnage Limits

Offshore Supply Vessels (OSVs) are limited by law to under 500 gross tons. This limiting tonnage has allowed regulators to prescribe standards for licensing, inspection, and manning appropriate for their size and service. Also, by maintaining OSVs to a size less than 500 gross tons, they are exempt from SOLAS requirements. However, with the trend toward facilities being located further offshore, larger OSVs are needed to meet the associated harsher service conditions and to provide greater cargo capacity. This is true also in foreign waters where U.S. OSVs seek to compete with their international counterparts.

The Coast Guard has no objection to raising the tonnage limit on OSVs, provided the attendant increased safety and environmental risks are properly addressed by complying with the applicable international regulations and conventions for vessels of this size and service. Specifically, these larger OSVs should meet the standards of a recognized classification society and the

applicable requirements for cargo ships as prescribed in SOLAS. This would be consistent with the enforcement of international requirements by other flag states for these vessels. It would make OSV owners and operators more competitive internationally, while meeting safety requirements commensurate with the hazards expected in service. Care should be exercised regarding exemptions from requirements placed on larger vessels carrying oil in bulk as cargo.

The Coast Guard supports greater use of the International Tonnage Convention (ITC) and shifting away from the antiquated Regulatory Tonnage scheme. We view this as a winner for vessel designers, shipbuilders, and owners who will be free to design the OSVs maximizing efficiency and safety while reducing the initial cost of construction. In addition, crew on vessels admeasured to ITC standards benefit by earning creditable sailing time for service on vessels whose size is more accurately reflected, thus improving their competitiveness for positions on larger vessels. To maintain safety standards at their current level, equivalencies could be developed between Regulatory and ITC tonnages based upon the measurement of existing vessels.

Small Passenger Vessels

A Supplemental Notice of Proposed Rulemaking was published January 13, 1994 with a 150 day public comment period. This comment period closed June 13, 1994. Additionally, seven public hearings were held around the country producing 153 comments. To

date, over 100 written comments have been received. The publication date for the final rule has not been set; all comments are currently being evaluated. As noted last year, structural fire protection requirements are not part of the existing small passenger vessel regulations. They are found in the deep draft passenger vessel regulations (subchapter H), and apply to all vessels which carry more than 150 passengers. The small passenger vessel industry has changed dramatically since the late 1950's, with an increased level of construction of higher passenger capacity vessels not envisioned by the existing regulations. The Coast Guard response has been to work with industry and review vessels on a case-by-case basis, and to build policy by applying the only existing regulations for structural fire protection, which come from large vessel regulations. The Supplemental Notice of Proposed Rulemaking seeks to define a middle ground between the original small passenger vessel regulations, and the more stringent requirements of 46 CFR, subchapter H. The focus of the proposed regulations is to define a structural fire protection standard appropriate for this growing category of high passenger capacity inland and near coastal small passenger vessels which will lead to a consistent national standard.

Fiberglass Reinforced Plastic Vessel Construction

The Coast Guard is actively promoting design flexibility in areas of both material and systems equivalencies to increase the competitiveness of the U.S. industry in world markets. For high

speed craft, a need exists for alternative hull materials that weigh considerably less than steel. Fiberglass, generally used for smaller vessels, is prohibited on larger vessels carrying more than 150 passengers due to flammability and heat sensitivity concerns. We have initiated a research program to develop a standard for assuring the fire safety of fiberglass structures. Unfortunately, a method has not yet been developed by which fiberglass can be reliably protected against the risk of fire. In February 1993, the Coast Guard completed a wide ranging study that assessed the state-of-the-art regarding the fire performance of Fiberglass Reinforced Plastic, particularly in marine fire scenarios anticipated on High Speed Craft. This investigation concluded among other things, that insufficient data existed regarding structural performance of fiberglass at elevated temperatures for the establishment of design standards. In addition, data that was available was generated by uncoordinated testing done by a number of different agencies. Additional research, initiated in 1993, was completed earlier this year with the purpose of developing a framework within which the necessary elevated temperature data can be acquired, and guidelines for the use of insulation so that fiberglass boundaries on vessels can achieve equivalent fire protection to existing fire rated boundaries. Research is expected to take some time due to funding constraints.

Excursion, Dinner Cruise, and Casino Vessels

Another example is the Coast Guard development of comprehensive alternative design requirements for domestic vessels in the

excursion, dinner cruise and casino vessel industry which operate on protected and partially protected routes. Dinner, excursion and gambling trade vessels differ significantly from the traditional ocean-going passenger vessels envisioned in existing regulations. Vessels being built today are designed with only large public spaces for passenger occupancy, resulting in higher passenger densities, and require special consideration. The Coast Guard has responded to the designers, builders and owners of this new generation of passenger vessels by developing innovative design and passenger safety system requirements that enhance safety while meeting the industry's needs. In November 1993, the Coast Guard finalized and published, in NVIC 8-93, an alternative method to permit longer and larger public spaces, beyond that allowed by current regulations. This alternative method is being widely utilized in the booming casino vessel construction industry. The rapid growth rate in this industry is expected to continue and the design advantages offered by the Coast Guard will allow shipbuilders and designers to use numerous performance-based alternatives rather than specifications having narrow scope. The Coast Guard will continue to work with designers, owners and shipyards to satisfy our safety concerns and avoid placing undue burdens on industry.

Automatic Sprinkler Systems

In the past several years, vessel designs have become more and more dependent on the installation of automatic sprinkler systems to ensure the safety of both passengers and cargo. Our current

regulations prescribe very specific sprinkler system details which do not permit designers to take advantage of significant technological advancements. Recognizing the opportunity to improve both safety and economic feasibility, the Coast Guard has taken the initiative to adopt and modify established industry standards which were developed by the National Fire Protection Association (NFPA). In November 1993, the Coast Guard published and distributed NVIC 10-93 to shipbuilders and designers, allowing the application of the NFPA sprinkler standard, with certain necessary modifications, to shipboard installations. The Coast Guard is working with NFPA to incorporate the guidance in NVIC 10-93 into the existing NFPA sprinkler standard. Our goal is to replace the current prescriptive sprinkler regulations in the Code of Federal Regulations by adopting the resulting new NFPA sprinkler standard by reference.

Regulation projects (amendments/equivalancies/redundancies)

One of the outcomes of the regulation comparison study which was incorporated into the U.S. Supplement to ABS rules is the initiation of several regulatory projects. The first project addresses our acceptance of other flag state approvals of lifesaving equipment as meeting the requirements of SOLAS, provided the flag state has approval processes and procedures similar to the U.S. This has been identified as one of the major cost drivers to ship construction and reflagging to U.S. flag. The second project deals strictly with the deletion of regulations which were found to have no value added due to their

being based upon old technology, determined to be unnecessary or redundant, or otherwise no longer applicable. The third project involves routine updates needed to the regulations which came to light during the regulation comparison study. In many cases, these changes will result in less prescriptive text and greater recognition of existing domestic and international requirements.

Stability regulation projects

As reported to you last year, the Coast Guard is in the process of incorporating the passenger vessel damage stability standards adopted by the IMO in 1988, to apply to our new domestic passenger vessels. You may recall that after IMO adopted these standards, the Coast Guard conducted a study to determine the ability of the majority of domestic passenger vessel designs to meet international requirements. After few comments were received and as a result of this study, the damage stability standards were applied to new domestic passenger vessels in December 1992.

Since that time, we have heard from shipyards and naval architects, who feel that the standard is too high and who report costs associated with changes in vessel design that are in excess of the expected impact. We held a public hearing in August 1993, to discuss these problems with the industry. Following this hearing, the regulations were suspended to allow submission of further comments from the industry and to allow the Coast Guard to extend our earlier study of domestic passenger vessel designs

to reexamine the impact of these regulations, especially on vessels operated solely in protected and partially-protected waters.

The results of the extended Coast Guard study will be completed this summer. The Coast Guard plans to propose revised damage stability standards for domestic passenger vessels based on the 27 comments received by the regulation project and on the results of the extended research. The proposed revisions to these regulations will address the differences between international and domestic passenger vessels, while ensuring that passenger vessels operated domestically can provide an equivalent level of safety to U.S. vessels on international routes.

Legislative changes

The Coast Guard has worked with representatives of the liner vessel operators to review legislative changes to establish a better legal foundation for implementation of several of the initiatives mentioned above and the anticipated regulatory projects. As indicated, the MRR compliance options rely on increased use of class society surveys and management audits. We have a number of other pilot programs developed in concert with the offshore industry and west coast ship operators which rely on our assessment and monitoring of company management and maintenance programs. The present legal structure permits these types of innovations, but it is thought by some that it would be better to assure the marine industry of the validity of these

approaches by more direct and clear legislative direction. This includes: Coast Guard acceptance of foreign government approvals for life and fire safety equipment and materials; harmonizing the inspection periods with the survey periods of class societies; broadening the definition of "recognized class society" to clearly permit others in addition to the American Bureau of Shipping; and broadening the basic authorization for the Department of Transportation (DOT) regarding superintendence of the merchant marine. As presently written, DOT and USCG authority can be read to be related to vessels only, not the associated company management and maintenance programs. If read in this manner, it stifles the opportunity for companies and shipyards to engage innovative techniques to reduce government and class society direct involvement in their operations.

Marine SafeTy Evaluation Program

A new major initiative is the Marine SafeTy Evaluation Program (MSTEP). This program developed out of support of the Navy Mid-term Sealift Program efforts. The eventual goal is to apply risk-based methodologies to develop safety criteria in a systems engineering approach to ship design and construction. Risk-based methods have long been the favored approach in private industry, especially those fields where the consequences of a particular hazard are high, such as the nuclear, chemical, and aircraft industries. Numerous regulatory agencies, both foreign and domestic, are also turning to risk-based regulations as the best way to address safety concerns and permit design flexibility to

the public. Application of this technology will greatly enhance Coast Guard abilities to make safety determinations on novel designs which are technically sound and which address hazards comprehensively yet objectively so as to minimize adverse economic impact on the customer.

This concludes my update of the major activities discussed last year, and a summary of new initiatives currently underway. As you can see, we have been extremely active both internationally and domestically. We have kept our maritime regulatory reform efforts solidly on track, guided the world maritime community toward safer ship operation and management through our involvement at IMO, and built partnerships domestically with industry to develop programs that implement international policies and agreements.

We have maintained our focus on harmonizing requirements with other flag states, improving port state capabilities, developing programs which consolidate efforts with classification societies, expanding recognition of quality companies and third parties in the management of safety systems, eliminating unnecessary or restrictive regulations, and increasing the scope of our application of international regulations and standards. All these efforts combined facilitate flag state compliance procedures, and enhance the quality of our commercial vessel safety program while reducing the regulatory burden on industry.

Thank you, Mr. Chairman. This summarizes our major activities over the past year. I would be pleased to answer any questions.

U.S. Department of Transportation

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SECRETARY PEÑA ANNOUNCES
MARITIME POLICY REFORM INITIATIVES

Secretary of Transportation Federico Peña today announced several initiatives that will enhance maritime policy reform and has directed the U.S. Coast Guard to execute a four-point program to that end. This is the third element of the administration's ship building initiative and its proposed maritime security program.

The initiatives involve vessel design compliance programs and the elimination of unnecessary regulations which impede U.S. shipbuilding and operating competitiveness.

Secretary Peña said, "When executed, these programs will neither degrade safety for the crews and passengers of U.S. ships nor diminish the protection afforded to the environment. These critical safety and environmental goals can be achieved while opening new avenues for U.S. ship builders and ship operators to s compete on a global scale."

The four-point program would include:

o Establishing compliance options so that a ship builder or owner could rely on classification society standards, rather than specific Coast Guard regulatory requirements. Classification societies are non-profit organizations that inspect vessels on behalf of flagging nations.

- more -

o Accepting regulatory compliance verification by qualified, responsible classification societies and not only from the American Bureau of Shipping (ABS). ABS is the official classification society of the U.S. government. It inspects U.S. vessels using construction requirements established by the Coast Guard.

o Establishing a model company program whereby the vessels of a company that instituted a rigorous system of quality management would be inspected less frequently by the Coast Guard than is currently provided for by law.

o Establishing a Coast Guard Oversight Program to verify the quality management program of participating shipping companies and classification societies.

Provisions also are included to accept certain items of equipment that have been approved by other governments that have approval systems equivalent to those of the U.S.

"The goal is to make the Coast Guard regulatory inspection and plan review program less burdensome, more efficient and effective for the U.S. maritime industry," Secretary Peña said.

Provisions will be initiated using a voluntary program developed by the Coast Guard in coqperation with the maritime industry.

A pilot program will begin in July to evaluate the alternative compliance. Volunteers are being solicited for the program and six companies have indicated interest in participating using ships whose Certificates of Inspection expire in July, August or September.

Secretary Peña urged the ship building and ship operating communities to become familiar with the initiatives and determine how they may enhance their business plans. He said, "These initiatives, taken together with the administration's other maritime reform initiatives are important steps towards achieving our goal of an internationally competitive U.S. maritime industry."

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Statement of
AMERICAN PRESIDENT LINES, LTD.
AND
SEA-LAND SERVICE, INC.
Presented by
GENE PENTIMONTI
VICE PRESIDENT, AMERICAN PRESIDENT LINES, LTD.
Regarding
THE NEED FOR PROMPT GOVERNMENT ACTION TO ENHANCE THE INTERNATIONAL COMPETITIVENESS OF UNITED STATES-FLAG LINER VESSELS BY ELIMINATING EXCESSIVE VESSEL STANDARD REGULATION
Before the
SUBCOMMITTEE ON COAST GUARD AND NAVIGATION
COMMITTEE ON MERCHANT MARINE AND FISHERIES
UNITED STATE HOUSE OF REPRESENTATIVES
WASHINGTON, D.C.
JUNE 22, 1994

Mr. Chairman and Members of the Subcommittee:

Good morning. I am Gene Pentimonti, Vice President of Government Services for American President Lines, Ltd. (APL). My prepared statement this morning is presented on behalf of both APL and Sea-Land Service, Inc. (Sea-Land).

For nearly 3 years now APL and Sea-Land have worked together to try to eliminate a significant barrier to an internationally competitive U.S.-flag liner fleet: excessive U.S. Coast Guard vessel requirements. Those regulatory requirements -- governing matters such as vessel design, equipment, maintenance and inspection -- are imposed on U.S.-flag liner vessels but not on foreign-flag vessels. They do not contribute to marine safety but they add significantly to our costs. Without relief from this unnecessary regulatory burden, U.S.-flag liner vessels can not be on a level playing field with competing foreign-flag ships.

Today our companies have the choice of adding new vessels to our fleet, either as U.S.-flag vessels or under foreign-flag registries. The competitive disadvantage on U.S.-flag operations due to these regulations is so serious that each of our companies considers this to be one of the problems that must be satisfactorily resolved before it could place new vessels under the United States-flag. Thus, as a public policy matter, we don't see how the United States-flag liner fleet can be revitalized if this problem is not solved -- before this Congress adjourns. In addition, the same problem and burden should be addressed for our vessels currently under U.S.-flag and subject to these unnecessary burdens.

One year ago, on June 17, 1993, a representative from Sea-Land and I presented detailed testimony to this committee on this problem. We discussed the extra costs imposed on U.S.-flag operators, specifics of the regulations at issue, and that extra requirements imposed do not enhance safety.

In my testimony today I will not describe the problem in detail again, but will briefly describe, for those who are not familiar, the basic nature of the problem. I particularly want to make clear that this is not a safety issue. If this were a safety issue, the Coast Guard would be applying these regulations to the foreign-flag vessels calling our ports -- our competitors' vessels. But they don't. This is merely an issue of costly, excessive regulation. And, in this age of global competition, a U.S.-flag vessel cannot afford to carry regulatory deadweight while it is doing battle in the marketplace with a foreign-flag vessel.

The bottom line, Mr. Chairman, is that everyone in this room who cares about revitalizing the U.S.-flag liner fleet needs to do whatever it takes to get a real solution to this problem in place before Congress adjourns. We need to close down what has been a long government decisionmaking process and put a firm, satisfactory solution in place.

With those words of introduction, let me turn to a brief description of the problem.

The Problem - The U.S. Government Requires More of U.S.-Flag Vessels Than Of Foreign-Flag Vessels, Even Though There Is No Safety Benefit

The Coast Guard, on behalf of our nation, generally accepts as safe foreign-flag vessels which call at U.S. ports so long as they meet the vessel standards imposed by the flag nation. Foreign nations generally require vessels flying their flags to meet standards adopted by the International Maritime Organization (IMO), and rely on classification societies to inspect vessels for compliance with IMO standards, including the Safety of Life At Sea (SOLAS) Convention and other rules. The Coast Guard has recently taken stronger action against foreign registries which do not do an adequate job of enforcing IMO's regulatory requirements. Let me be clear. We have no objection to that and, in fact, support that effort.

Our objection is that the Coast Guard imposes requirements which are in addition to and different from international norms only on U.S.-flag vessels. These differences cover virtually all vessel issues -- design, construction, engineering, equipment, maintenance, repair. And, on top of that, by relying less on classification societies than do the authorities in other nations, the Coast Guard effectively requires inspections of U.S.-flag ships which are duplicative, time consuming and costly compared to the inspections faced by vessels flying other flags.

The Coast Guard's recently announced and commendable initiative to inspect substandard foreign-flag ships is not an attack on the standards used by those nations. It is instead a response to concern that those standards are not being enforced. So, that enforcement effort actually gives recognition to the international standards applied to foreign-flag ships by making sure that they are enforced. Further evidence that the international standards are safe is the safe operating record of the many foreign-flag liner vessels operated by companies which also operate U.S.-flag liner vessels.

In short, the Coast Guard accepts international norms for foreign-flag vessels calling our ports every day of the year. Those vessels carry more than 80 percent of our foreign liner trade, and 95 percent of our total foreign trade. The Coast Guard accepts international standards as safe unless a U.S.-flag vessel wants to use them! Then our government requires more. Mr. Chairman, we don't consider that to be logical or fair.

How much does this regulatory burden cost the operator of U.S.-flag liner vessels? Our two companies, based on real world experience, including the pricing of contracts with shipyards, have found that the cost is considerable. In general, we believe that Coast Guard vessel rules increase the initial cost of acquiring a new vessel (no matter where built) by roughly five percent, but by more in some cases. When Sea-Land asked the shipyard building its newly ordered vessels how much more it would cost to build those vessels to U.S. standards, they were told the cost would be $10 million more per ship. That letter is attached for your reference. In addition, ongoing cost differentials imposed on U.S.-flag vessels by the difference between Coast Guard requirements and international norms approximate $100,000 per year per vessel. For a fleet of 25 U.S.-flag vessels, over a 25 year life beginning with construction, the cost of Coast Guard vessel rules can easily add up to $200 million plus interest over the cost of foreign-flag vessels. This is a huge disadvantage for operators of U.S.-flag fleets.

As to safety, let me emphasize that, today, the U.S.-flag merchant marine has declined to a point where roughly 96 percent of all foreign commerce cargo moved in and out of U.S. ports moves on foreign-flag vessels, vessels following the international vessel norms, not the Coast Guard regulations. And the Coast Guard accepts those foreign-flag vessels as safe. So, what could be the safety threat of allowing U.S.-flag vessels to do what virtually all vessels calling U.S. ports can do? We don't see how present excessive U.S. vessel regulations could be justified on safety grounds when so many vessels calling U.S. ports follow the international norms and are accepted by our government as safe.

And, on top of that, our companies have our own experience operating foreign-flag vessels. Our fleets are not entirely U.S.-flag, and we know from experience that use of foreign vessel standards has no adverse impact on safety. Let me be clear on that. Our companies are absolutely committed to safe vessel operations. We wouldn't be satisfied with foreign vessel norms unless we were convinced that they provided a high level of safety.

Furthermore, we have discussed these issues with our shipboard unions and they are fully supportive of our efforts to eliminate these regulatory burdens. If vessel safety were an issue, we obviously would not have their support.

It Is Time To Resolve This Issue

This situation must be changed. The questions are how and when.

Originally, our focus was on a regulatory solution. Over 27 months ago, APL and Sea-Land sent a list of roughly 300 vessel regulations to the agency that we felt should be changed -- and could be without impacting vessel safety.

I and others have been working very hard with the agency on this issue throughout that period. I believe the agency now better understands our concerns and is trying to fashion solutions. In particular, the Coast Guard has been developing some regulatory guidance documents that hold out promise of providing significant help. However, this Spring we decided that the record of movement on this issue was such that we could not look solely to a regulatory solution to achieve prompt and positive action.

Legislation is necessary, Mr. Chairman, if there is to be any chance that new vessels presently being built for our companies are to be placed under U.S.-flag. Those vessels are being built to the less costly but equally safe international norms. Our companies have said, and we will say again here, that among the prerequisites to our being able to flag those vessels U.S. is U.S. government acceptance of these international standards.

We testified before the Senate last month that legislation is needed, and followed up by suggesting to Senate and House staff and the Administration legislative language that would close this regulatory gap. Within the last month we have had serious discussions with the Coast Guard. These discussions are very welcome. We have always been committed to working with the Coast Guard on this issue. We are very open to suggestions from the Coast Guard for different combinations of legislative and regulatory actions on vessel standards that will allow U.S.-flag vessels to compete on a level playing field with foreign-flag vessels, consistent with safety; that includes alternatives to what we have already suggested. At this time we believe we're making process in these discussions but we don't yet have alternative language to suggest. However, we are working hard to develop language which is agreeable to the agency, and look forward to providing it to the Congress, as an alternative to what we have already proposed, as soon as it can be developed.

Conclusion

Mr. Chairman, we deeply appreciate the opportunity to appear before you today to reaffirm that the burden of excessive U.S. vessel standards must be eliminated as part of the effort to revitalize the U.S.-flag liner fleet. We are hopeful that the increased pace of discussions with the Coast Guard over the last few weeks, and the continued interest of this committee and others in the Congress, means that a way will be found to solve this problem before Congress adjourns -- and before the U.S.-flag liner fleet disappears.

That concludes our prepared statement. At this time I'd be pleased to respond to any questions the committee may have.

* * * * *

Attachment

IHI
Ishikawajima-Harima Heavy Industries Co., Ltd.
TOKYO CHUO BLDG. 6-2 MARUNOUCHI 1-CHOME CHIYODA-KU, TOKYO 100 JAPAN

April 12, 1994
Ref.No. SN94-0436

Sea-Land Service, Inc.
- Control Building
5080 Melester Street
Elizabeth, New Jersey 07207
U.S.A.

Attention: Mr. H.G. Nilsen
Manager, Marine Engineering Services

Subject: IHI Hull Nos. 3055/ 3056/ 3057 and 3058 (SL44)
Change Order Inquiry #001

Gentlemen:

Reference is made to your letter Ref.No. SL-44 dated March 21, 1994, covering Change Order Inquiry #001 for change of the country of registry from Marshall Islands to U.S.A. for all four(4) ships.

As you are well aware, the design work is being developed on the existing Contractual Specification basis and, furthermore, almost all major equipment has already been placed order on at this moment. Frankly speaking, therefore, it seems almost unrealistic at this stage to change the flag of registry into U.S.A. and, even though you might give us your firm acceptance of the estimation indicated hereinafter, our compliance with the change of flag shall be subject to final decision by our top management since extension of delivery shall be unavoidable due to such change, which shall seriously affect not only construction of the subject four(4) ships but also our shipbuilding business activity in relation to inevitable idleness on our berth and other commitments.

Based on the above understanding, we estimated the impact in changing the flag of registry into U.S.A. for your information as follows:

D . Terms and Conditions for Estimation:

1) Extra Cost quoted hereinafter shall consists of only the direct impact such as:

a) increase of required construction work, design work and extra cost for purchasing USCG instructed equipment etc. which are required normal practice required for U.S. Flag ship, and;

b) cancellation of existing purchasing orders and re-performance of basic and/or functional plans developments so far performed but does not include consequential losses such as idleness on our berth in each shipyard due to put-off of fabrication start occurring by extension of design lead time. Such consequential loss is too huge to be summarized at this moment but shall finally be regarded as an element of extra item.

2) In case of U.S. Flag new building, we estimate that necessary construction period up to delivery would normally take more three(3) months than that of flag-of-convenience ship. In addition, more three(3) months would be required for re-arrangement of basic design with the Owner as well as technical discussion with both ABS and USCG. Therefore, in total, we estimate the delivery of each ship would be extended by six(6) months respectively. (Such delivery extension shall also affect H3057 to be scheduled to construct in Kure Shipyard at this moment, since construction yard for this ship might be re-considered at such moment.)

3) The preceding two(2) conditions shall be based on the assumption that change of flag into U.S.A. is mutually and finally agreed by the end of April, 1994. In this connection, please note that, beyond such date, therefore, the cost impact other than 1)-a) above as well as impact on delivery date shall accordingly be increased and, once the construction work is commenced, the impact of such change of flag on actual construction work shall also be taken into account.

4) Impact on other issues such as lightweight, vertical moment is not investigated this time.

II) Estimation of Extra Cost:

Based on the above terms and conditions, we would quote our estimation of extra cost as follows:

A) Extra Cost (Direct Cost only): US$10,000,000-/ship

- calculation -

Item	H3055	H3056/3057/3058
1)-a) Direct Cost in case of US Flag from the beginning:		
i) Procurement:	(US$4.14Mil.)	(US$4.14Mil./ship)
ii) Production/Design Manhour and Expenses additional:	(US$6.27Mil.)	(US$3.94Mil./ship)
1)-b) Direct Cost due to cancellation of procurement, re-performance of design work from the beginning:	(US$3.43Mil.)	(US$0.64Mil./ship)
Total:	.....US$13.84Mil.	US$8.72Mil./ship.

Average (4 ships): US$10Mil/ship

We hope the above information is satisfactory for your requirement.

Very truly yours,

ISHIKAWAJIMA-HARIMA HEAVY
INDUSTRIES CO., LTD.

S. Ishizaki
General Manager
Ship Sales Dept.

c.c : IHI Inc. NY (Mr. K. Shindo)

PASSENGER
VESSEL
ASSOCIATION

808 17th Street, NW.
Suite 200
Washington,
DC 20006-3910

Fax
(202) 785-0540

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formerly
**the National
Association
of Passenger
Vessel Owners**

Testimony

of the

Passenger Vessel Association

Hearing on Coast Guard Construction Standards

Subcommittee on Coast Guard and Navigation

Committee on Merchant Marine and Fisheries

U.S. House of Representatives

June 22, 1994

Mr. Chairman, I am Archie Nichols, Vice President of Nichols Brothers Boat Builders of Freeland, Washington and Portland, Oregon. Our company has built many of the vessels that propelled the dramatic growth of the dinner cruise and high speed ferry passenger vessels of the last two decades. I'm pleased to be here today representing the Passenger Vessel Association (PVA). Last year you heard from our fellow PVA member, Mr Tom Carman of Delta Queen Steamboat Co. This year I'd like to give you another perspective from our passenger vessel industry regarding the Coast Guard's regulatory construction standards.

The Passenger Vessel Association is the national trade association of the passenger vessel industry, representing today some 400 U.S. vessel operating companies and 150 builders, designers and suppliers. We all are committed to maintaining the domestic passenger vessel industry's record of achievement with its exemplary safety record and economic viability.

The principal guarantor to the public for a safe cruise experience is the vessel's operator and his or her corporate practices and business principles. Whether sailing for pleasure, business or transportation, the public can look to the vessel owner for assurance that their safety is foremost among the owner's concerns.

The construction standards that the Coast Guard establishes for inspected passenger vessels are intended to insure that the vessels designed, built and outfitted meet certain specific capabilities of stability, seaworthiness, fire resistance, life saving capacity, and the ability to survive accident or the rigors of the water environment.

Over the years, the partnership between industry and the Coast Guard has given us an unequalled safety record for the millions and millions of passengers carried each year. Based on that record, it's clear that we do not need additional restrictions, sanctions and limitations. Experience has shown that there is no substantial or significant omission in law or regulation. The program is mature and comprehensive. The current issue of the PROCEEDINGS OF THE MARINE SAFETY COUNCIL lists the Coast Guard's measurable goals for the commercial vessel safety program variously as "reductions", "improvements", and "eliminations". For the passenger vessel industry, it is "prevent passenger vessel casualties with major losses of life" - in other words, maintain the status quo.

What we do need is for the Coast Guard to recognize the advancement of knowledge and technology that has taken place and is taking place even as we speak, and incorporate the new technology into regulations in a timely manner. This evolution of regulation should insure that not only are new technologies and materials adopted but outdated materials, regulations that have served their purpose or regulations which have lesser cost/benefit ratios are eliminated. Ideally, what we would have over time is a dynamic body of regulation which is shrinking in volume, more cost effective and current with the state of technology and knowledge.

We also need policies and regulations that can accommodate change. The reason this industry has grown so has to do with industry innovation and marketplace demands in combination with the flexibility that is built into some existing regulations. Regulation and policy must be general goal statements which permit new vessel designs which could not have been anticipated at the time the regulations were written.

The advancement of technology in the boat building field has brought about some new and unique innovations, which will both improve shipyard efficiency and maintain high levels of safety. As an example, my company which specializes in light weight aluminum construction has entered into a partnership with a fiberglass boat

building company. The Coast Guard has granted us, through this partnership, approval for the first ever Coast Guard certificated fiber glass hulled vessel that will be certified for more than 149 passengers. Although the regulations specifically prohibit the use of hull materials other than steel or its equivalent for the construction of any vessel carrying more than 150 passengers, the Coast Guard Merchant Marine Technical Division office has worked with us to gain approval of the fiberglass hulled vessel, on the basis of an equivalent level of safety. The fiberglass hull of this concept vessel provides a low cost lightweight alternative to labor intensive aluminum construction, and the aluminum superstructure and special fire prevention techniques provide high levels of fire protection and passenger safety. Although the rules virtually would not allow for the proposed boat to be built, we have successfully negotiated a reasonable solution. What I have just described is an example of how the regulators should work with those who are being regulated.

Finally, we need to remain cost accessible. A domestic passenger vessel's prime competitors are not necessarily other similar boat operations, but restaurants, amusement parks, fairs, tours, casino vessels and dozens of other leisure time activities that compete for the consumer's discretionary income. The capacity of our industry to comply with law and regulation is finite and limited. New initiatives, therefore, must be carefully weighed. We cannot afford outdated regulation; we cannot afford redundant regulation; we cannot afford inefficient regulation; we cannot afford regulation which blocks technological advancement; and we cannot afford regulation for show.

The Coast Guard Marine Safety offices generally have worked well and cooperatively with our industry, sharing common goals which are dedicated to a safe environment for the passengers. The relationship often has been an example of how Government and industry can work together as a team, rather than as adversaries. This operating environment must be broadened further, however,in order to assure the continued success of our business.

Just over a year ago, we were invited to testify on Coast Guard construction standards for the first time. We appreciated that invitation and feel that the opportunity led to a constructive new dialogue interactions between the domestic passenger vessel industry and the Coast Guard. It was clear then that the domestic passenger vessel industry had different concerns and needs than the deep draft, sea going fleet which is the primary intended beneficiary of the Coast Guard's Maritime Regulatory Reform.

Since last year we and the Coast Guard have found an interim solution for our concerns about International Maritime Organization (IMO) based stability criteria applied to domestic vessels. This proposed regulation demonstrated that most IMO standards are not directly applicable to domestic passenger vessel construction and operation. We and the Coast Guard also have agreed on a policy that permits equivalency determinations for domestic excursion vessels which, because of high passenger counts, cannot comply with the formula driven dimensions of the Subchapter H structural fire protection regulations.

The new HSC (High Speed Craft) code developed by the IMO is useful and necessary for construction and operation of high speed vessels which operate on an international route. Use of this code, however, as guidance for construction and operation of domestic high speed craft is not practical and the code is not necessarily directly transferable.

Many of the domestic high speed passenger vessels operate on short or protected routes where such guidelines would be extreme and excessive. My company is currently building the first U.S. vessel under this new code. We have gone around in regulatory circles for the past year and a half. Not only had the HSC code guidelines been required as regulatory guidance for this vessel, but also any other requirements that were considered necessary by

the Coast Guard office. The process has been very difficult and expensive. Whereas a similar vessel built to conventional regulations would cost about $10 to $11 million dollars, this vessel will finish at around $15 million.

If the IMO HSC code is to be adopted, we the industry want input into its implementation. This could be done by a forum, composed of various industry experts, to discuss specific items of that code and their applicability to domestic safety standards.

We participated in the Coast Guard's public meeting on the regulatory process last September and have high hopes for improved communication opportunities within the rulemaking process. One of the problems with the regulatory process, as it is currently practiced, is that at the time industry/Coast Guard dialogue would be most meaningful, the Coast Guard feels compelled to withdraw because of its interpretation of ex parte communications. There needs to be more opportunity for consultation during the conceptualization, development, drafting, refinement and finalization of contemplated regulations.

The Supplementary Notice of Proposed Rulemaking for the Inspection and Certification of Small Passenger Vessels, Subchapters T and K, was released in January. This long delayed rewrite of the regulations covering small passenger vessels contains many positive changes, including three year inspection cycles, longer dry dock intervals, a more reasoned proposal on primary lifesaving equipment and greater acceptance of commercially available finishing materials, among others things. These proposed regulations start to recognize the reality of technology and the environment in which we operate. The regulations still fall short, however, in many areas. The principal shortcoming is that the structural fire standard is not approached in a systematic way but is a potpourri of prevention, detection, control, extinguishment, material and capacity limitations - requirements in many instances more restrictive than SOLAS or Subchapter H. The regulations are also heavily oriented to specific prescriptive standards rather than goals, in conflict with Executive Order 12866* and the Coast Guard's own policy directives.

Our members, other organizations and individuals have commented extensively during a schedule of seven public hearings. We now look forward to the Coast Guard's adoption of those industry comments. Because of the significance of the changes we seek, we have asked the Coast Guard to provide another industry review before the regulations are issued in any type of final form. We will certainly keep this Subcommittee advised as the process continues towards its conclusion.

While our industry's experience with the Coast Guard largely has been positive this year, wooden passenger vessel owners faced a dramatically changed relationship with the Coast Guard as a result of the loss of the EL TORO II last December. What we in the domestic small passenger vessel industry experienced was some significant instances of overreaction to that tragic accident. Certificates of Inspection were pulled without explanation. Some owners experienced what best can be termed a campaign to drive wooden passenger vessels from the inspected fleet, as if the Coast Guard suddenly lost faith in wood boat building as a type of construction suitable for passenger service.

The accident involving the EL TORO II, as we understand the circumstances, was a series of human acts of omission and commission. Human failures led to the loss of the vessel and three lives, not a failure of any construction standard.

We found the retaliation against wooden vessels in general surprising since the Coast Guard's own figures show that wood is the primary hull material in the small passenger vessel fleet. In December 1990 these vessels comprised 27% of the fleet with aluminum vessels second at 25 % of the fleet. Wooden vessels are a significant part of and can claim a share of the industry's

exemplary safety record. Any incident of human failure through omission and commission, however unfortunate, should be viewed in context and not be permitted to drive the wooden fleet from the water.

We must eliminate the perception that industry by proposing change to or deviation from current construction regulations is somehow avoiding or acting contrary to the public interest. It is the maintenance of outdated regulation and the proliferation of ad hoc and unpublished policy incident to plan approval activities that is not in the public interest. Our industry is motivated to seek change to use new knowledge and technology, improve construction and outfitting processes, achieve new vessel uses, minimize costs and compete. Yet the Coast Guard has a tendency to view new initiatives as rule beating, or seize upon them as an opportunity to add yet another layer of regulation rather than as an equivalent to or an improvement of existing regulation.

Executive Order 12866 and Commandant Instruction 5420.32** encourage the development and adoption of industry consensus standards in lieu of regulation. Formation of the National Fire Protection Association Committee on Merchant Vessel Fire Protection announced by the Coast Guard in the FEDERAL REGISTER of March 2, 1994 is a good example. We intend to participate enthusiastically as an organization and through our interested members. However, there is a corresponding burden on the Coast Guard that is not well recognized. The more the regulations reference consensus standards, the greater the training load on the Coast Guard. The Coast Guard is already overtaxed just teaching the basics of regulation, policy and process to its inspection personnel.

We do not support delegation of passenger vessel safety inspection activities to third parties. Delegation to third parties leads to loss of regulator expertise, loss of regulator sensitivity and loss of direct accountability. Our industry finds itself less able to communicate with the government agency that controls its destiny.

Last June we laid out the Association's vision of the government's future regulatory safety role for this subcommittee:

> Eventually, we believe that the marine safety program must move towards industry execution under government delegation. Escalating costs of government, the rising cost of maintaining a full range of marine specific standards and the need to capitalize on the breadth and depth of industry expertise and experience will move us in that direction.

Our Association position is that when it becomes necessary or desirable for the Coast Guard to withdraw from any aspect of passenger vessel regulation, the first decision must be whether that function can be eliminated entirely. Some areas of regulation long ago achieved their goals and are no longer relevant to safety. If a function must continue, then delegation to industry through self certification or to industry professionals serving under some agent relationship must be considered. Under the direction of Mr. Bill Dow and Mr. Gordon Stevens, New Orleans Steamboat Company, a PVA member, currently is engaged in developing a cooperative inspection program with the New Orleans Marine Safety Office as a first step in this process.

In the passenger vessel industry, Congress has a proactive opportunity to reduce regulation, simplify compliance, conserve resources and promote business growth by changing existing regulatory tonnage concepts and tonnage thresholds. To do this, Congress needs to change or remove vessel manning statutes from the United States Code. The statutes that dictate specific manning requirements, conditions and limitations for vessels of 100 or more gross tons are inappropriate for today's domestic, excursion, short voyage, passenger vessel operations. These statutes serve no function in modern domestic passenger vessel operations and the

issue would be better addressed through regulation under broad legislative guidance to the Secretary. In this regard, we are encouraged that the Coast Guard appears to be taking one small step in this direction through the draft legislation on manning statutes it anticipates sending to Congress in the near future.

Because existing statutes, written in an era of vessels and trades that no longer exists, impose great cost with little relation to modern vessel construction technology and provide no safety benefit, a substantial part of the domestic passenger vessel industry avoids them by building vessels under 100 gross tons. The need to build to small passenger vessel rules to control outdated manning costs has not short changed the public as our safety record attests. It has enabled, however, the growth of one segment of the U.S. maritime industry.

Building vessels to small passenger vessel rules through tonnage management techniques involves capital costs for additional hull material which does not add to the strength of the vessel and creates substantial areas of unusable space. It does, however, avoid a lifetime of unnecessary, day in and day out crew costs. If the vessels could be built to standards of an updated Subchapter H, and manned with concurrently updated requirements reflecting modern technology, the mysteries of tonnage, the need for new Subchapter K, a multitude of ad hoc policies, unproductive design and construction costs and a large measure of misunderstanding between our industry and the Coast Guard would evaporate.

One PVA member in a comment to the Small Passenger Vessel Inspection and Certification proposed regulation docket detailed a rationale and potential solution for these problems. We would be happy to provide his comments for your information.

The Passenger Vessel Association represents an innovative and growing industry with -- we believe -- a brilliant future. Our nation's overloaded highways have spawned a public demand for commuter ferry boats in cities where navigable waterways will allow them. Dinner cruise vessels, excursion boats, mini-cruises ships, gaming boats, small ferry boats and other such passenger boats have safely and efficiently filled a specialized market niche, while also providing many thousands of needed jobs.

By maintaining a positive and cooperative regulatory environment that allows a common sense approach to passenger vessel safety, we will not only continue to flourish as one of the safest passenger vessels fleets in the world, but also provide some much needed help to our suffering ship building industry.

We appreciate the opportunity share our views with you today. It is out hope that any future regulatory activity will be directed towards the enhancement of the economic growth in the passenger vessel industry, hand-in-hand with protection of persons and the environment.

*Executive Order 12866, "Regulatory Planning & Review", is the national statement of regulatory philosophy and lists twelve principles of regulation. Regulations which comply with this order meet the legitimate needs of the public, while minimizing compliance impact, undesirable side effects and duplication.

**Commandant Instruction 5420.32, "Standards Program for Marine Safety, Security and Environmental Protection Programs", repeats the requirements of Executive Order 12866 and OMB Circular A-119 as guidance for Coast Guard regulatory actions.

TESTIMONY

OF

ROBERT J. ALARIO

PRESIDENT
OFFSHORE MARINE SERVICE ASSOCIATION

ON

U.S. SHIPBUILDING STANDARDS

BEFORE THE

SUBCOMMITTEE ON COAST GUARD AND NAVIGATION

JUNE 22, 1994

The Offshore Marine Service Association (OMSA) represents more than 270 companies that operate special purpose vessels, or provide equipment, services and supplies, in support of offshore oil and gas operations, worldwide. Among OMSA's members are a number of small and intermediate size shipyards, many of which specialize in the construction and repair of these specially designed offshore service vessels. Cumulatively, these shipyards employ thousands of U.S. shipyard workers and, indirectly, are responsible for thousands more support jobs.

OMSA has been asked to comment and offer recommendations on ways to improve U.S. shipbuilding standards and requirements in an effort to make them more efficient and less costly, while maintaining vessel safety and maintainability.

We thank the Chairman, and the members of this subcommittee, for this important opportunity, and we respectfully offer the following comments and recommendations.

First, it should be noted that the large, U.S. fleet of special purpose offshore service vessels is fast approaching obsolescence. For all practical purposes, no new vessels have been built in 15 years. Our boats, on average, are 14 years old, and have a normal service life of 20 years. Ninety-five percent of these OSV's have been designed, built and operated under the U.S. tonnage admeasurement system and regulations related to tonnage thresholds thereunder, including licensing, manning, etc. U.S. OSV's are certificated as motor vessels of not more than 500 gross tons, under the U.S. tonnage (U.S. regulatory) admeasurement system.

After July 18, 1994, however, new U.S. vessels to be constructed from thereon that would operate, or want the capability to operate, in foreign waters, must mandatorily be admeasured under the International Tonnage Convention (ITC) system and would have to operate, in international waters, under regulations, i.e. crew licensing, etc., tied to that (ITC) admeasurement system.

The two systems of tonnage admeasurement vary greatly. The same vessel, or different, but virtually indistinguishable vessels, could obtain vastly different tonnage measurements under the two systems, triggering arbitrary and problematic consequences.

Time is of the essence, therefore, and we need your help. Our design and purpose is to reconcile the application of the two systems, so as to avoid, or at least minimize, the negative impact on both the existing U.S. fleet of offshore service vessels, and the new prospective fleet.

There are, therefore, two imminent, urgent requirements:

The United States must, in effect, 1) protect the sizeable existing fleet from any arbitrary, negative impact coming from the implementation, as of July 18, 1994, of the International Tonnage Convention, and 2) encourage the construction of efficiently designed offshore service vessels in U.S. shipyards, so that these vessels, and their crews, are optimally competitive in international markets.

The United States Coast Guard and the Offshore Marine Industry have, for numerous years, struggled with the enormously complex problem of converting the offshore marine industry from utilization of the U.S. Standard tonnage admeasurement system to the International Tonnage Convention (ITC) admeasurement system. The ramifications are deep, complicated and innumerable. Reconciliation of the two admeasurement systems is not necessarily easy or consistent. Because of the complex nature of the problem, an overall, general resolution has been either unattainable or repeatedly postponed, even avoided.

Certain of the more obvious and problematical ramifications have matured and must be addressed now. Certain decisions must be made. As a practical matter, they simply can be delayed no longer. The main reason is the following:

On July 19, 1994, the International Tonnage Convention (ITC), ratified by the U.S. government, will come into full force, with the result that U.S. flag vessel operators, on that date, will be faced

82-312 - 94 - 4

with changes which acutely impact upon them, either directly or indirectly. Many of the issues which they must deal with, either in the short or long term, are "tonnage sensitive". The issues in question impact upon U.S. offshore marine operations, worldwide, with respect to vessel manning, licensing, construction and initial design. Even decisions whether, and certainly how, to build new vessels for this special purpose industry would come into play. Singularly or cumulatively, these factors could involve great expense, the loss or gain of jobs, affect career paths (i.e., license qualifications such as "sea service" requirements) and have other, serious implications for the offshore marine service and small vessel sectors. The competitive position, indeed the general health of the largest national/international U.S.-flag fleet of vessels, - that is the U.S. offshore marine service industry - is affected and requires immediate attention.

Consequently, the U.S. Coast Guard and the offshore marine service industry have collaborated in order to quantify certain gaps which must be identified and bridged in order to avoid critical conflicts emanating between U.S. regulations and the requirements of certain international conventions, both of which are often related to, and controlled by, vessel tonnage thresholds, with different, contradictory results with respect to the same - or nearly identical - vessels. Without these careful surgical initiatives, this huge, viable sector of the U.S. merchant marine could be seriously and unnecessarily impacted, all because of the highly arbitrary and largely theoretical differential between the U.S. admeasurement system and the international admeasurement system established in the International Tonnage Convention (ITC) which, as indicated above, comes into effect as of July 18, 1994.

Unfortunately, there is no direct correlation between the formulae used in determining a vessel's tonnage under the U.S. Standard admeasurement system and the ITC admeasurement system. This makes it difficult to effect the transition between the two admeasurement systems in a simple, comparative tonnage "table".

Your assistance is essential to the resolution of the dilemma created by the application of the two different admeasurement systems, which result in different ramifications in domestic and international areas when applied, literally and/or figuratively to operations of the same, or an nearly identical, vessel, by the same crew. For example, then, please refer to the illustration in our testimony comparing two vessels, virtually identical, but constructed and admeasured under the different systems.

	U.S. Regulatory Construction	ITC Construction
	Vessel "A"	**Vessel "B"**
Length	240 ft.	234 ft.
Beam	52 ft.	52 ft.
Depth (Tonnage Deck)	18.5 ft.	21.75 ft.
Draft (Approx.)	15.5 ft.	15 ft.
Lightship (Vessel weight)	2250 Long Tons	1300 Long Tons
Deadweight (Cargo capacity)	1527 Long Tons	2388 Long Tons
Displacement (Max. Draft)	3777 Long Tons	3688 Long Tons
U.S. Tonnage	**497 Gross Tons**	**1410 Gross Tons**
ITC Tonnage	**1557 Gross Tons**	**1942 Gross Tons**

As can be seen in the example above, Vessel "A" and Vessel "B" have virtually the same principal dimensions, in terms of length, beam and draft. Vessel "A" was designed to meet the statutory definition of an OSV (less than 500 gross tons). Vessel "B" was designed to achieve maximum efficiency and cost-effectiveness, while meeting all pertinent international requirements. Even though these two vessels are virtually the same size, which is confirmed by a comparison of their respective displacement tonnages, Vessel "B" does not meet the statutory definition of an OSV.

Although Vessel "A" can be designed to meet the statutory definition of an OSV ***and*** comply with the international requirements invoked by its ITC tonnage, the cost of constructing such a vessel is 10 - 15% greater than the cost of constructing Vessel "B".

There are other "tonnage sensitive" ramifications regarding the differences in the construction and admeasurement systems used for these two vessels:

Environmental Protection - The design of Vessel "A" requires the use of additional steel for deep frames and strategically located bulkheads to meet the statutory definition of an OSV, which results in a vessel weight (Lightship tonnage) that is **70% greater** than Vessel "B". The effect of adding this additional steel results in higher fuel consumption to propel the vessel and, consequently, greater air pollutant emissions than Vessel "B".

Human Resources - In addition to the construction, environmental and regulatory implications, the issue of human resources is critical, particularly as it relates to licensing and manning requirements. Vessel "B" must be operated in U.S. waters by a Master holding a 1600 ton license, while Vessel "A" can be operated by a Master with a 500 ton license, although it is commonplace for the Master to hold a 1600 ton license. However, if either vessel is to be operated in foreign waters, the vessel's ITC tonnage is used to determine the requisite license required of the Master. In this case, the Master that operated Vessel "B" in U.S. waters, eminently qualified in terms of his license and particular training/skills, is not "***qualified***" to operate the vessel in foreign waters. Compounding the matter further, under current law, the Coast Guard maintains that licensed officers who possess the necessary license to operate the vessel in foreign waters cannot use the sea service time acquired on Vessel "B" to advance their license, due to the regulatory tonnage of the vessel and current U.S. licensing statutes, which are controlled by tonnage considerations. This situation, under the current statutes, effectively disenfranchises existing, specially trained and licensed mariners and does not provide a career path for future mariners.

USCG Regulations - The Coast Guard recognizes that the operations and characteristics of OSV's do not warrant the application of the regulations established in Subchapter I of Title 46 of the Code of Federal Regulations and has therefore proposed separate regulations to be incorporated into a new Subchapter L of that Title that take into consideration the special nature and function of these specially designed, special purpose vessels. It is expected that the new Subchapter L regulations will be issued as an Interim Final Rule later this year. Since Vessel "B" does not meet the statutory definition of an OSV, it would be subject to inspection under Subchapter I, which is more pertinent to container ships and other "deep sea" cargo vessels than to OSV's and with which regulations, it is physically impossible for our vessels to comply. Consequently, since we are not physically able to comply, that non-compliance or incapacity would result in our vessels being considered as operating in violation of USCG and other federal regulations and, therefore, to be operating in violation of our insurance covenants, viz. arguably without insurance.

Many of the most critical, immediate problems outlined above arising from the arbitrary conflicts between the two admeasurement systems, can and would be resolved, with respect to new construction, and related problems, discussed, by the enactment of technical, corrective legislative changes to Title 46, United States Code, without creation of unnecessary confusion and conflict with respect to the important, existing fleet of vessels.

Toward that end, OMSA has worked with the Coast Guard and members of the staff of this subcommittee and the full committee to specifically address the most immediate and future needs of our industry to improve shipbuilding techniques through modifications in the regulatory process and to remove obstacles to competing more effectively in the international market. We have done this through a careful analysis of the most pertinent issues, while addressing concerns regarding the safety and environmental protection responsibilities of offshore vessel operators.

In conclusion, we believe that this proposal, through these technical accommodations, will serve to enhance the competitive position of the offshore marine service industry, open new markets for U.S. shipyards, provide and protect employment opportunities for U.S. merchant mariners and shipyard workers, and meet our responsibility to build and operate vessels in a safe and environmentally conscious manner.

Mr. Chairman, members of the subcommittee, thank you for the opportunity to comment on this very important matter. We would be pleased to answer any questions that you may have.

Robert J. Alario, President
Offshore Marine Service Association

United States
Marine Safety
Association

UNITED STATES MARINE SAFETY ASSOCIATION
STATEMENT OF
DAVID B. SMITH, PRESIDENT
ON
UNITED STATES SHIPBUILDING REQUIREMENTS
BEFORE THE
SUBCOMMITTEE ON COAST GUARD AND NAVIGATION
UNITED STATES HOUSE OF REPRESENTATIVES
JUNE 22, 1994

Good morning, Mr. Chairman. It is a pleasure to appear before this distinguished Subcommittee today, and to discuss proposed changes to regulations affecting the United States shipbuilding industry and its operators.

I am speaking to you today as President of the United States Marine Safety Association. The USMSA consists of more than 145 companies and marine safety professionals who are involved in either the design and/or manufacture of marine safety equipment, or provide training and other professional services specifically in the field of marine safety. The Association is dedicated to promoting the highest possible marine safety standards and creating wide-spread awareness in the use of marine safety equipment.

We understand that the Subcommittee on Coast Guard and Navigation may be considering a change in 46 U.S.C. § 3306(b) to include the language:

> "The Secretary may accept approvals of fire and life safety equipment and materials issued by foreign governments which the Secretary determines utilize design and testing standards that meet the requirements of the International Convention for the Safety of Life at Sea, Chapters II/2 and III and their associated International Maritime Organization guidance documents."

Management Office 1900 Arch Street, Philadelphia, PA 19103 (215) 564-3484 FAX (215) 564-2175

For the record, please let me state that the members of this association are supportive of the initiatives of this committee and the U.S.C.G. We recognize the value to our industry in removing unnecessary barriers to competitive shipbuilding in the U.S. Our members and industry can only benefit from these efforts.

However, in reference to revising subsection (b), we strongly urge the Committee to accept the following proposed amendment to this subsection:

> (b) "Abandon-ship survival equipment subject to regulation under this section may not be used on any vessel without prior approval as prescribed by regulation. The Secretary may accept approvals of other equipment and materials issued by foreign governments which the Secretary determines utilize design and testing standards that meet the requirements of the International Convention for the Safety of Life at Sea, Chapters II/2 and III and their associated International Maritime Organization guidance documents."

Over the years, the U.S.C.G. has interpreted the SOLAS rules to the very highest standards in order to protect the American public. After each major tragedy, boards of inquiry are introduced to investigate and review existing regulations and provide their recommendations for better safety systems, products, or rules. These recommendations are reflected in U.S.C.G. regulations that exceed the SOLAS minimums for abandonment lifesaving equipment. Our standards are intended to save lives of American mariners in the most hazardous of situations. The U.S.C.G. and we in industry have seen many instances of equipment with approvals by foreign government which neither meets the letter nor the intent of SOLAS. In many instances this equipment appears to be approved to satisfy a regulatory inconvenience or a bottom line. U.S.C.G. approved equipment is not designed to save regulators or accountants. It is designed and manufactured to save sailors whose lives are at risk.

There are many areas where SOLAS is silent. In the case of inflatable life rafts there are no standards for fabric. The U.S.C.G. fabric standard was developed in conjunction with manufacturers from France, England and Denmark as well as domestic manufacturers. SOLAS would allow life rafts to be made with materials far below U.S.C.G. standards and known to be unreliable in critical life saving applications.

If this Committee decides that U.S. sailors should have inferior equipment, it not only jeopardizes those sailors, it jeopardizes U.S. manufacturers and those foreign manufacturers from Germany, Japan, Netherlands, Norway, Sweden, and others who have decided to build equipment for U.S.C.G. approval. We are eager to compete in the global market place, but not at the cost of lower standards.

In closing, I would like to thank you and other members of this distinguished subcommittee for allowing me to speak before you this morning. I hope this subcommittee will show its continued support for the American sailor by assuring that abandon ship survival equipment is not compromised. When all other ship-board systems fail, the equipment we are discussing today must always work without fail.

I would be happy to answer any questions you many have in this matter at this time.

Statement By
John J. Stocker, President
Shipbuilders Council of America
Submitted to the
Subcommittee on Coast Guard and Navigation
Committee on Merchant Marine and Fisheries
U.S. House of Representatives
Re: U.S. Coast Guard Shipbuilding Standards and Ship Repair
1334 Longworth House Office Building
Washington, DC 20515
June 22, 1994

Mr. Chairman and Members of the Subcommittee, my name is John J. Stocker. I am President of the Shipbuilders Council of America, the national trade association representing the private sector shipbuilders, ship repairers, marine equipment manufacturers and naval architects of the United States. A list of our membership is attached. I appreciate the opportunity to submit this statement to you on the issue of U.S. Coast Guard standards and on the utilization of foreign shipyards to repair ships of the Coast Guard.

Since I testified before you last year, much has occurred in the private sector. The passage of the National Shipbuilding Initiative as a part of the fiscal year 1994 Defense Authorization Act codified two important elements of the President's plan to revitalize U.S. shipbuilding. These two areas were the extension of Title XI loan guarantees to overseas owners and the creation of the MARITECH program which funds cooperative Research and Development programs designed to improve U.S. shipyard competitiveness in the worldwide commercial marketplace. In fact, just last month, a U.S. shipyard signed a letter of intent with a foreign owner to build four double hulled product carriers, the first export contract for this industry in almost 40 years.

I must admit that with our focus on the international market and the continuing failure of U.S. oil companies to order ships for the Jones Act trades which conform to OPA 90 standards, we have not pushed the technical standards issue as hard as in previous years. However, what we need remains clearly in focus. Ships which meet international standards of safety and operational reliability must also be acceptable to the U.S. Coast Guard. As an industry, we should not be held to a higher standard than Japan, Korea or Europe, all of which produce safe and reliable ships. Our goal is that ships of the same class built in the same shipyard, would be identical if constructed for a U.S.-flag operator or a foreign-flag operator. We believe that should be the goal of the Coast Guard and of this committee.

We are encouraged by the formation of the Coast Guard Regulatory Reform Group and hope that the efforts of that group will continue to be well received by the Coast Guard and this committee. We are particularly encouraged by the growing willingness of the Coast Guard to accept testing of fire and life safety equipment and materials by foreign governments which meet SOLAS standards. This is a very important first step which must eventually translate into acceptance of foreign standards for propulsion, auxiliary, ship control, cargo handling and other critical ship systems. If we are to be a part of the worldwide commercial community, then we, as a nation, must be willing to accept international standards and work within those bodies to ensure that the standards are adequate.

In my prepared remarks before this committee last year, I discussed the widely held perception that U.S. Coast Guard regulations impel higher prices and longer delivery times to U.S. shipbuilders ordering machinery abroad. It is this perception which must be dispelled if we, as an industry, are to be able to obtain equipment offshore at equivalent prices. We believe that the Coast Guard is moving in the proper direction, and we look forward to a continuing dialogue with them on this issue.

The second issue I was invited by the committee to discuss involves the ability of the U.S. Coast Guard to conduct routine maintenance of ships and craft in shipyards outside the United States. In February of 1994, it was brought to the Council's attention that the Coast

Guard was allowing Canadian shipyards to bid on solicitations for repairs, including drydocking, of Coast Guard ships on the Pacific Coast. We immediately requested the Contracting Officer to review his decision and in March of this year provided the Coast Guard with a legal brief stating a clearcut legal requirement for the Coast Guard to conduct maintenance of the ships in U.S. shipyards. On May 4, 1994, the Commandant of the Coast Guard denied our claim except at such times as the Coast Guard is operating under the jurisdiction of the Secretary of the Navy. It is not the intention of the Shipbuilders Council to contest the Commandant's decision in court. Rather, we ask that this committee undertake to alter appropriate statutes to reflect that ships and craft of the U.S. Coast Guard, homeported in the United States, its territories or possessions, must have all routine scheduled maintenance done in U.S. shipyards.

At a time when this committee is dealing with methods to preserve the maritime industry of this nation, it seems clear that the contribution of the Coast Guard to the maintenance of that critical industrial base should not be allowed to go to subsidized overseas yards. We urge this committee to initiate changes to the U.S. Code which will ensure that America's shipyards remain strong and viable and ready to meet any future crisis. The relevant correspondence with the Coast Guard on this matter is attached.

Thank you for the opportunity to submit this statement. We would be happy to respond to any questions for the record which the committee may pose.

Shipbuilders Council of America
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4301 N. Fairfax Drive
Arlington, Virginia 22203
Tel: 703-276-1700 Fax: 703-276-1707

June 1994

REGULAR MEMBERS

The American Ship Building Company
Tampa Shipyards, Inc.
6001 South West Shore Blvd.
Tampa, FL 33616

Atlantic Marine, Inc.
8500 Heckscher Drive
Jacksonville, FL 32226

Avondale Industries, Inc.
Post Office Box 50280
New Orleans, LA 70150

Bath Iron Works Corporation
700 Washington Street
Bath, ME 04530

Bay Shipbuilding Company
605 North Third Avenue
Sturgeon Bay, WI 54235

Bender Shipbuilding &
Repair Company, Inc.
Post Office Box 42
265 S. Water Street
Mobile, AL 36601

Bethlehem Steel Corporation
Bethlehem, PA 18016
Port Arthur, TX
Sparrows Point, MD

Bollinger Machine Shop &
Shipyard, Inc.
Post Office Box 250
Lockport, LA 70374

Cascade General, Inc.
Post Office Box 4367
Portland, OR 97208

Continental Maritime of San Diego, Inc.
1995 Bay Front Street
San Diego, CA 92113-2122

Edison Chouest Offshore
North American Shipbuilding, Inc.
East 118th Street
Galliano, LA 70354

General Dynamics Corporation
3190 Fairview Park Drive
Falls Church, VA 22042
Electric Boat Division, Groton, CT
and Quonset Point, RI

General Ship Corporation
400 Border Street
East Boston, MA 02128

Halter Marine, Inc.
13085 Industrial Seaway Road
Gulfport, MS 39505

Ingalls Shipbuilding, Inc.
Post Office Box 149
Pascagoula, MS 39567

Intermarine U.S.A.
Post Office Box 3045
Savannah, GA 31402

The Jonathan Corporation
Post Office Box 1839
Norfolk, VA 23501

Marine Hydraulics International, Inc.
543 East Indian River Road
Norfolk, VA 23523

Marinette Marine Corporation
Ely Street
Marinette, WI 54143

McDermott Incorporated
Post Office Box 60035
1010 Common Street
New Orleans, LA 70160

Metro Machine Corporation
Box 1860
Norfolk, VA 23501

National Steel & Shipbuilding Company
Harbor Drive at 28th Street
Post Office Box 85278
San Diego, CA 92138

Newport News Shipbuilding
4101 Washington Avenue
Newport News, VA 23607

Norfolk Shipbuilding &
Drydock Corporation
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Norfolk, VA 23501

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101 Pennsylvania Street
Post Office Box 47
Sturgeon Bay, WI 54235

Southwest Marine, Inc.
Foot of Sampson Street
Post Office Box 13308
San Diego, CA 92113
San Francisco & San Pedro, CA

Textron Marine & Land Systems
6800 Plaza Drive
New Orleans, LA 70127

Todd Shipyards Corporation
1102 SW Massachusetts
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ALLIED INDUSTRIES MEMBERS

Bird-Johnson Company
110 Norfolk Street
Walpole, MA 02081

Centrico, Inc.
100 Fairway Court
Northvale, NJ 07647

Dresser Pump Division
Dresser Industries, Inc.
401 Worthington Avenue
Harrison, NJ 07029

Fairbanks Morse Engine Division
1730 M Street, NW
Washington, DC 20036

General Electric Company
1331 Pennsylvania Avenue, NW
Washington, DC 20004

Hopeman Brothers, Inc.
Post Office Box 820
Waynesboro, VA 22980

IMO Industries, Inc.
3450 Princeton Pike
Post Office Box 6550
Lawrenceville, NJ 08648

Jamestown Metal Marine Sales, Inc.
4710 Northwest Second Avenue
Boca Raton, FL 33431

Jered Brown Brothers, Inc.
1608 Newcastle Street - Post Office Box 904
Brunswick, GA 31521

Lake Shore, Inc.
Post Office Box 809
Iron Mountain, MI 49801

Reliance Electric Company
24800 Tungsten Road
Cleveland, OH 44117

Sperry Marine, Inc.
Aerospace & Marine Group
Route 29 North
Charlottesville, VA 22907

Teleflex Incorporated
771 First Avenue
King of Prussia, PA 19406

Unisys Government Systems Group
8201 Greensboro Drive
Suite 1000
McLean, VA 22102

Wartsila Diesel, Inc.
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Westinghouse Electric Corporation
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Serial 72-JS

February 4, 1994

Dear Mr. Askelson:

It has come to our attention that the Coast Guard is and has solicited for services associated with the drydocking of vessels on the West Coast that would appear to contravene U.S. law. Specifically, we have been informed that you are permitting Canadian shipyards the opportunity to bid in response to these solicitations. (See DTCG85-94-R625V59).

You should consult 10 U.S.C. 2303 which defines the Coast Guard as an agency under the Defense Department procurement regulations for the purposes of the procurement of goods and services. Since the Coast Guard is considered an agency of the Defense Department for the purposes of procurement, it should also be noted that the law also restricts the Defense Department to conducting repairs to vessels homeported in the United States to U.S. shipyards. Therefore, we believe that the Coast Guard has erred in allowing Canadian shipyards to bid.

Since the Government of British Columbia failed to award its high-speed ferry contract to an American shipyard when it was the low bidder, the members of the Shipbuilders Council of America see no reason why the Coast Guard should reward the protectionist behavior of the British Columbia Government by allowing Canadian yards to bid on a Coast Guard procurement. This is particularly true if the Coast Guard has contravened the law.

Please review your decision prior to contract award.

Sincerely,

John J. Stocker
President

Mr. Lee Askelson
Contracting Officer
MLCPAC
Coast Guard Island, Bldg. 50-7
Alameda, CA. 94501

Via fax: 510-437-3392

cc:Admiral J. William Kime, USCG
Commandant

Shipbuilders Council of America
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Serial 131-JS

March 2, 1994

Admiral J. William Kime, U.S.C.G.
Commandant
U.S. Coast Guard
2100 Second Street, N.W.
Washington, D.C. 20593-0001

Re: Coast Guard Procurement: Repairs To Home-Ported Vessels

Dear Admiral Kime:

As you know, we have been greatly concerned that the U.S. Coast Guard might permit Canadian shipyards the opportunity to bid for services associated with the dry docking of U.S. home-ported vessels on the West Coast. Our February 4 letter to Lee Askelson that was copied to you expresses this concern. We believe that there is no legal authority for awarding such contracts to foreign shipyards, and the following analysis discusses in detail the basis for our belief.

Section 7310 of title 10 of the U.S. Code concerning the Armed Forces prohibits the construction or repair of U.S. home-ported vessels in foreign shipyards. With regard to repairs, it states:

> A naval vessel (or any other vessel under the jurisdiction of the Secretary of the Navy) the homeport of which is in the United States may not be overhauled, repaired, or maintained in a shipyard outside the United States.

Pub. L. No. 103-160, 107 Stat. 1710 (codified as amended at 10 U.S.C. § 7310(a) (1993), reprinted in U.S.C.C.A.N. (Jan. 1994)) (emphasis added); see also 48 C.F.R. § 225.7006(b) (1992). Although the statute does not define the phrases "naval vessel" or "vessel under the jurisdiction of the Secretary of the Navy," related provisions of the Code concerning the Armed Services indicate that, for purposes of repairs or maintenance, a Coast Guard vessel is construed to be under the jurisdiction of the Secretary of the Navy and thus bound by the prohibition.

The Coast Guard operates under the joint jurisdiction of the Department of Transportation ("DOT") and the Navy. The DOT serves as the daily governing authority

of the Coast Guard. In the event that the Coast Guard is called to active military service, the Navy assumes daily governing authority. Coast Guard statutory provisions stipulate that:

> Upon the declaration of war or when the President directs, the Coast Guard shall operate as a service in the Navy, and shall so continue until the President, by Executive order, transfers the Coast Guard back to the Department of Transportation. While operating as a service in the Navy, the Coast Guard shall be subject to the orders of the Secretary of the Navy who may order changes in Coast Guard operations to render them uniform, to the extent he deems advisable, with Navy operations.

14 U.S.C. § 3 (1988).

Similarly, the statutory provisions concerning the Navy also direct the Secretary of that branch of the armed services to displace the governing authority of the Secretary of Transportation when called upon. They state:

> (a) Whenever the Coast Guard operates as a service in the Navy under section 3 of title 14, the Secretary of the Navy has the same powers and duties with respect to the Coast Guard as the Secretary of Transportation has when the Coast Guard is not so operating.
>
> (b) While operating as a service in the Navy, the Coast Guard is subject to the orders of the Secretary of the Navy, who may order changes in Coast Guard operations to make them uniform, to the extent he considers advisable, with Navy operations.

10 U.S.C. § 5013a (1988).

Both of the above provisions detail the scope of the daily governing authority of the DOT and the Navy over the Coast Guard, but provide no guidance with regard to the jurisdiction of the Navy over Coast Guard vessels. Given that jurisdiction is a much broader concept than mere daily governance, the statutory and legislative history cited below demonstrate that Coast Guard vessels are subject to the repair constraints of section 7310.

The Plain Language of Section 7310 Places Coast Guard Vessels Under Naval Jurisdiction.

In its ordinary sense, jurisdiction means "the limits . . . within which authority may be exercised: control." Webster's Ninth New Collegiate Dictionary 655 (9th ed. 1983). The authority and control the Navy maintains over the Coast Guard is extensive. By its enabling statute, the Coast Guard is required to be constantly prepared for military service under the Navy. It serves as a distinct "military service and a branch of the armed forces of the United States at all times . . . ." 14 U.S.C. § 1 (1988) (emphasis added). To reinforce this notion, title 10 states that "'armed forces' means the Army, Navy, Air Force, Marine Corps, and Coast Guard." Id. § 101(4). The Coast Guard is specifically charged with the duty of defending of the United States, and expressly subject to naval jurisdiction. The Coast Guard Act mandates that:

> The Coast Guard . . . shall maintain a state of readiness to function as a specialized service in the Navy in time of war, including the fulfillment of Maritime Defense Zone command responsibilities.

Id. § 2 (emphasis added).

In recognizing the Coast Guard as a branch of the armed services, one court has noted: "In no case, . . . has the Supreme Court or any other court, ever held that in order to constitute an armed force, an organization must have as its single primary mission 'to fight or be ready to fight.'" United States v. King, 2 M.J. 1280 (C.G.C.M.R. 1976). The functions of the Coast Guard may be many, and may be administered most often by the DOT; however, there is a continuing and pre-emptive duty of the Coast Guard to be prepared to serve under the authority of the Navy as an armed service. The Navy thus has continual jurisdiction over the Coast Guard.

Because the Coast Guard thus maintains "vessel[s] under the jurisdiction of the Secretary of the Navy," Coast Guard vessels home-ported in the United States must be repaired there. A well-established rule of statutory construction supports this position. To construe the foreign repair prohibition statute to pertain only to naval vessels and to exclude Coast Guard vessels would violate the legal tenet that a court may not construe a statute to render some of its terms mere surplusage. In re Willington Convalescent Home, Inc., 72 B.R. 1002 (Bankr. D. Conn. 1987), aff'd, 850 F.2d 50 (2d Cir. 1988), cert. granted sub nom. Hoffman v. Connecticut Dept. of Income Maintenance, 488 U.S. 1003 (1989), aff'd, 492 U.S. 96 (1989); see also United States v. Kramer, 757 F. Supp. 397 (D.N.J. 1991). That the statute lists "naval vessels" separately from other vessels "under the jurisdiction of the Secretary of the Navy" indicates that two classes of vessels are to be subject to the prohibitions. Coast Guard vessels, which are not naval vessels but which fall under the

jurisdiction of the Navy, are clearly part of the second class of vessels and thus subject to the foreign repair prohibition.

Congress Intended to Prohibit Foreign Construction and Repair of Home-Ported Coast Guard Vessels.

Legislative history underlying the provision prohibiting foreign construction and repair of U.S. armed forces vessels further supports the view that the repair restriction was intended to encompass Coast Guard vessels. Subsection (a) of section 7309, which requires armed forces vessels to be constructed in the United States, was amended in 1987 to apply broadly to the vessels of all of the "armed forces," including Coast Guard vessels. Pub. L. No. 100-180, 101 Stat. 1146 (codified as amended at 10 U.S.C. § 7309(a) (1988)) (current version at Pub. L. No. 103-160, 107 Stat. 1710, codified at 10 U.S.C. § 7909(a) (1993), reprinted in U.S.C.C.A.N. (Jan. 1994)).[1/] The accompanying House Report explained:

> [This section] would extend the requirements for domestic vessel construction contained in Section 7309(a) of Title 10, United States Code, for vessels constructed for any of the military services to vessels constructed for any of the armed forces. In so doing, [it] would extend these requirements to the Coast Guard, in addition to the Department of Defense.

H.R. Rep. No. 58, 100th Cong., 1st. Sess. 229 (1987), reprinted in 1987 U.S.C.C.A.N. 1018, 1235 (emphasis added).

Subsection (c) of this section, which applies to vessel overhaul, maintenance and repair, was added one year later. Its language also expressly rejected a limitation of the restriction to naval vessels only. Pub. L. No. 100-456, 102 Stat. 2054 (codified as amended at 10 U.S.C. § 7309(c) (1988)) (current version at Pub. L. No. 103-160, 107 Stat. 1710, codified at 10 U.S.C. § 7310(a) (1993), reprinted in U.S.C.C.A.N. (Jan. 1994)). Clearly, Congress contemplated the same expansive scope for repair subsections of the statute as it did for construction subsections -- a scope intended to reach vessels operated by the Coast Guard.

1/ Section 7309(a) states: "Except as provided in subsection (b), no vessel to be constructed for any of the armed forces, and no major component of the hull or superstructure of any such vessel, may be constructed in a foreign shipyard."

The Coast Guard is Subject to Military Procurement Rules Generally.

Title 10 also explicitly includes the Coast Guard in its rules governing general military procurement. These rules apply to:

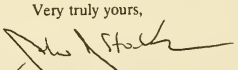
> the procurement by any of the following agencies, for its use or otherwise, of all property . . . and all services for which payment is to be made from appropriated funds:
>
> (1) The Department of Defense.
>
> (2) The Department of the Army.
>
> (3) The Department of the Navy.
>
> (4) The Department of the Air Force.
>
> (5) The Coast Guard.
>
> (6) The National Aeronautics and Space Administration.

10 U.S.C. § 2303 (1988) (emphasis added).

Congress thus made an express policy choice to include the Coast Guard within the scope of its rules governing military procurement. Repairs to Coast Guard vessels constitute one particular type of the various forms of procurement in which the Coast Guard may engage. To the extent that a Coast Guard vessel is home-ported, military procurement policy requires that it should be governed by the same foreign repair prohibitions as naval vessels. Accordingly, a home-ported Coast Guard ship must be repaired in a U.S. shipyard.

In sum, the Coast Guard is a member of the armed services of the United States, and Coast Guard vessels are subject to a call to active military duty under the authority of the U.S. Navy at any time. Both the plain language and congressional intent underlying the repair restriction statute, as well as general policy governing military procurement, place Coast Guard vessels under the jurisdiction of the Navy and thus require their repair in U.S. shipyards.

Very truly yours,



John J. Stocker
President

Via Fax: 202 267 4158

U.S. Department of Transportation
United States Coast Guard

Commandant
U.S. Coast Guard

2100 Second St., S.W.
Washington, DC 20593-0001
Staff Symbol: G-CPM
Phone: 202-267-1170

4200

MAY 4 1994

Mr. John J. Stocker
President
Shipbuilders Council of America
4301 N. Fairfax Drive, Suite 330
Arlington, VA 22203

Dear Mr. Stocker:

This is in response to your letter of March 2, 1994, which raises legal issues about the Coast Guard's procurement of ship repairs. Your letter questions the legal authority for awarding services contracts associated with dry docking of U.S home-ported vessels to foreign shipyards. This correspondence will discuss the distinction between the authority of the Department of the Navy to have its "naval vessels" repaired outside the United States, and the authority of the Department of Transportation (DOT) to have Coast Guard cutters repaired outside the United States.

Section 7310 of Title 10, U.S. Code explicitly prohibits the repair of "A naval vessel (or any other vessel under the jurisdiction of the Secretary of the Navy)" outside the United States. For the purpose of this statute, Coast Guard cutters are not "naval vessels." Coast Guard cutters are only "under the jurisdiction of the Secretary of the Navy" while the Coast Guard operates as "a service in the Navy;" during such periods "the Coast Guard shall be subject to the orders of the Secretary of the Navy." 14 U.S.C. § 3. Thus, 10 U.S.C. § 7310 does not apply to Coast Guard cutters except "upon the declaration of war or when the President directs."

In 1987, Congress amended 10 U.S.C. § 7309(a) to require vessel construction in the United States for all of the "armed forces," including the Coast Guard. One year later, Congress ignored the broad and inclusive "armed forces" language it used in Section 7309(a), and deliberately chose instead selectively to prohibit the overseas repair of only "naval vessels (or any other vessel under the jurisdiction of the Secretary of the Navy)" in Section 7310(c). Where Congress makes such a deliberate distinction, it is a distinction with a difference.

4200

Subj: REPAIR OF COAST GUARD CUTTERS

There are no other statutes or regulations which preclude the Coast Guard from obtaining ship repair services from that firm which offers the Coast Guard the best value for those services. You are correct that the procedures required by the Armed Services Procurement Act (ASPA), 10 U.S.C. § 2301 et seq., apply to the Coast Guard as well as to Department of Defense (DOD). However, it does not subject the Coast Guard to every statute or regulation governing DOD in procurement matters.

Sincerely,

J. W. Kime

J. W. Kime
Admiral, U. S. Coast Guard
COMMANDANT

VESSEL "A"
497 GT (U.S.)
1557 GT (I.T.C.)
VESSEL "B"
1410 GT (U.S.)
1942 GT (I.T.C.)
0
30
60
90
120
150
180
210
240
270
(LENGTH IN FEET)

90 000 DWT TANKER
35 000 DWT TANKER
180' SUPPLY BOAT
0
100
200
300
400
500
600
700
800
900
LENGTH IN (FT.)

Ref. to: RA-94-0918
File Ref.: T-18-7/srm

14 July, 1994

Honorable W.J. "Billy" Tauzin, Chairman
U.S. House of Representatives
Committee on Merchant Marine and Fisheries
Coast Guard and Navigation Subcommittee
Room 541, House Annex II
Washington, D.C. 20515

Subject: Coast Guard Shipbuilding Requirements
Proposed Amendment to 46 USC 3316

Dear Mr. Chairman,

The American Bureau of Shipping ("ABS") commends the Chairman and Members of the Committee for their initiative in revising shipbuilding standards to improve the competitiveness of U.S. flag operators and shipyards. Part of this process involves the role of the classification societies, and ABS is pleased to submit its views for your consideration.

ABS is recognized in Federal Statute as the classification society of the U.S. Government. As such, the U.S. Coast Guard, which administers U.S. maritime regulations, has delegated to ABS some of the technical, survey, and certification functions concerning both international maritime conventions, to which the U.S. is signatory, and U.S. national requirements. This recognition is comparable to the recognition many foreign countries give to their own national classification society.

As a point of information, there are some 40 classification societies of various sizes worldwide, the largest and better known are members of an organization called IACS - The International Association of Classification Societies. They, and their country of origin or "home" country, are:

TWO WORLD TRADE CENTER, 106TH FLOOR, NEW YORK, NEW YORK 10048 USA
TEL: 212-839-5000 TLX: 232099 ABNY UR FAX: 212-839-5130

Class Society	Home Country
American Bureau of Shipping (ABS)	United States
Bureau Veritas (BV)	France
China Classification Society (CSS)	People's Republic of China
Det Norske Veritas (DNV)	Norway
Germanischer Lloyd (GL)	Germany
Korean Register of Shipping (KR)	Korea
Lloyd's Register of Shipping (LR)	United Kingdom
Nippon Kaiji Kyokai (NKK)	Japan
Polski Rejestr Statkow (PRS)	Poland
Maritime Register of Shipping (RS)	Russia
Registro Italiano Navale (RINA)	Italy

Historically, there has been a close and cooperative relationship between the classification services of these societies and the statutory certifications administered by their home governments. It is evident from Table 1 that each of these societies currently enjoys a considerable nationalistic preference for their classification services by vessels flying their "home" country's flag. Part of this is due to owners' preference, but a significant part is also due to:

- the preferential or exclusive authorization of the society by its home government to provide statutory services under the international conventions, as evidenced in Table 2, and

- the reliance placed by the government on the home society's classification rules and services. Some governments explicitly cite their home society's Rules in their national regulations, just as the USA does at present. And at least one government requires by law that all vessels flying its flag be classed by its home society.

Similarly, most of these governments currently afford little or no delegation of authority to societies other than their home society with respect to certification of vessels engaged in cabotage and domestic service.

ABS supports improvements in U.S. shipbuilding standards. Further, ABS believes that other classification societies should be free to promote their services in the United States and should be eligible for delegation of certain statutory authorizations from the United States Coast Guard -- provided ABS is afforded equal freedom of access to the other societies' home country markets for its services and equivalent reciprocal recognition by the other societies' home governments.

By "reciprocity," we mean equal and demonstrable access to the foreign market in a timely manner. This access extends to laws, regulations, policies and practices by which

classification, certification and related services are delegated and performed. "Reciprocity" must include the extent and scope of the delegations, the timing thereof and the type, sizes, and services of vessels covered. Reciprocity should consider whether the affected vessels are commercially owned, government owned or government subsidized. To our knowledge, none of the home governments of the IACS member societies delegate authorities with respect to governmentally owned vessels [nor governmentally subsidized vessels] to other than their home society. ABS concurs with this approach both for reasons of national security and because public funds are involved. Thus, ABS does not feel reciprocity should extend to government owned or government subsidized vessels.

Therefore, if U.S. laws were changed to allow the U.S. government, through the Coast Guard, to delegate statutory certification services to foreign class societies, with no equivalent reciprocity, ABS would be placed at a distinct disadvantage which could cause ABS irreparable harm.

The European Union is also currently studying delegation of authority matters. The current "Draft Council Directive on Common Rules for Maritime Administrations and Ship Inspection and Survey Organizations, European Council Working Document 6/4/94," (extract attached), which is expected to be adopted later this year, contains provisions addressing recognition and delegation of authority by Union member governments to classification societies headquartered in the European Union. However, it indicates that Union member States may decline to delegate authority to qualified classification societies headquartered in other Union member states until at least 1998 and possibly beyond.

Further, the Draft Directive states that a Union member government may request reciprocal recognition for the qualified classification societies headquartered in the European Union prior to granting recognition to a classification society, such as ABS, which is headquartered outside the Union. Thus, as written, European Union member States could revoke ABS' current recognitions or refuse to extend them if the USA were to decline to provide reciprocal recognition for all the qualified classification societies headquartered in the European Union even though individual Union member States could still refuse to recognize all of those classification societies or ABS.

Finally, the Draft Directive only applies to Union member States' oceangoing vessels subject to the international conventions engaged in international trade. It does not address cabotage vessels or those engaged in domestic, inland trade--even with respect to delegation of authority to class societies headquartered in other Union countries, let alone organizations such as ABS. Thus, to achieve true reciprocity in line with the Union's Draft Directive, the USA could consider delegating authority to European Union based societies only for US flag vessels engaged in international trade subject to the international conventions and only provided the European Union home governments of those societies all delegate comparable authority to ABS--and at the same time.

Having reviewed the draft language for proposed amendments to 46 U.S.C. S 3316, and based upon the discussion above, ABS respectfully submits the attached amendment.

In conclusion, the USA has always been a leader in international maritime affairs. On this particular matter, we have a new paradigm which can only be navigated by government to government agreements and cooperation. We hope that the USA will continue its leadership role by forging a new, rational and equitable policy for the internationalization of these services based upon the principles of quality, performance and demonstrable reciprocity. We appreciate the opportunity to submit our statement and look forward to working with the Committee to achieve a fair and level playing field internationally.

Very truly yours,

Iarossi

Frank J. Iarossi
Chairman and CEO

Table - 1

Ship Classification by 'Home' Society

(Ships > 1000 GRT)

Country of Registry	Home (1) Society	% Classed By Home Society (2)
China, Peoples Republic	CCS	98%
France, National & Other	BV	91%
Germany	GL	97%
Italy	RINA	99%
Japan	NK	100%
Korea, South	KR	100%
Norway	DNV	98%
Norway - NIS	DNV	75%
Poland	PRS	93%
Russia	RS	91%
United Kingdom	LR	83%
United States	ABS	98%

Source: Lloyd's World Shipowning Groups - Aug 93

(1) CCS China Classification Society
BV Bureau Veritas
GL Germanischer Lloyd
RINA Registro Italiano Navale
NK Nippon Kaiji Kyokai
KR Korean Register of Shipping
DNV Det Norske Veritas
PRS Polski Rejestr Statkow
RS Maritime Register of Shipping
LR Lloyd's Register of Shipping
ABS American Bureau of Shipping

(2) Gross Registered Tons Basis

Table – 2
Delegation of International Certification Authority
Reported by the Class Societies to IMO's FSI–2 Sub–Committee
November 1993

Country of Registry	Class (Home)	1966 Load Line	Tonnage Int'l 1969	Tonnage Nat'l	SOLAS,74 / 78 Protocol: Cargo Ship Safety Constrct	Safety Equipt	Safety Radio	Bulk Chem	Gas Code	Pass Ship Cert	MARPOL (73/78) Annex 1	Annex 2
	ABS		L	L								
China, Peoples Republic	CCS	F	F	F	F	F	F	F	F	F	F	F
	DNV	L	L	L	L	L	L					
	LR	L	L	L								
	ABS	F										
France	BV	F			P							
	DNV	F										
	LR	F										
Germany	GL	L			L						L	
	ABS					L	L					
	DNV					L						
	LR	L			L	L					L	L
Italy	RI	F	P	P	F	P				P	F	F
Japan	NK	F			P			P	P		P	P
	ABS	L										
	BV	F	L		F		F					
	DNV	F	L		L	L	L					
Korea, South	KR	F			F						F	F
	LR	P										
	ABS	F			L						F	
	BV	F			P	L					F	
Norway	DNV	F			P	P		P	P		F	
	GL				P						L	
	LR	F			P	P					F	
	ABS	F	P		F	F	F	F	F		F	F
	BV	F	F		F	F	F	F	F		F	F
Norway, NIS	DNV	F	F		F	F	F	F	F		F	F
(as of April 94)	GL	F	F		F	F	F	F	F		F	F
	LR	P	P		P	P	P	P	P		P	P
	CCS				P							
	DNV	F			L							
	LR		L									
Poland	PRS	F	F		P	P	P				F	F
	DNV	L	L		L						L	
Russia	RS	F	F		F	F	F	F	F	F	F	F
	ABS	F	F	F	F						L	
	BV	F	P	P	F						L	
	DNV	F	F	F	F	L		L			P	
	GL				P							
United Kingdom	LR	F	F	F	F	P	P				P	P
United States	ABS	F	F	F	F							
	BV	L										
	CCS				L							
	DNV	L	F	F	L							
	GL	P										
	LR	P										
	RI				L							

Legend

F	Authorized to carry out surveys, plan review and issue necessary certificates
P	Authorized to carry out surveys and plan review; Administration issues Certificates
L	Limited authorization such as case–by–case basis or geographic restriction

EXTRACT FROM EUROPEAN UNION

"DRAFT COUNCIL DIRECTIVE ON COMMON RULES FOR MARITIME ADMINISTRATIONS AND SHIP INSPECTION & SURVEY ORGANIZATIONS"

EUROPEAN COUNCIL WORKING DOCUMENT, 6/4/94

ARTICLE 5

1. In applying Article 3 (2) (i), Member States shall in principle not refuse to authorise any of the recognised organisations located in the Community to undertake such functions, subject to the provisions of Articles 6 and 10. However, they may restrict the number of organisations they authorize in accordance with their needs provided there are transparent and objective grounds for so doing. At the request of a Member State, the Commission shall, in accordance with the procedure laid down in Article 12, adopt appropriate measures.

   (a) By way of derogation, Member States may be temporarily exempted by the Commission from the implementation of the provisions of paragraph 1 until 31 December 1997.

2. In order for a Member State to accept that an organisation located in a third State is to carry out the duties mentioned in Article 3 or part of them it may request that the said third State grant a reciprocal recognition for those recognised organisations which are located in the Community.

PROPOSED AMENDMENT

Amend Section 3316 of Title 46, United States Code:

(1) by revising subsection (a) to read as follows:

"(a) In carrying out this part, the Secretary may rely on reports, documents, and certificates issued by the American Bureau of Shipping or other recognized classification society."

(2) by revising paragraph (c) (1) to read as follows:

"(c) (1) To the maximum extent practicable, the Secretary shall delegate to the American Bureau of Shipping or other recognized classification societies the inspection or examination of a vessel documented or to be documented as a vessel of the United States. The classification society may issue the certificate of inspection required by this part and other related certificates."

(3) by revising subsection (d) to read as follows:

"(d) The Secretary also shall, to the maximum extent practicable, make agreements with or use the American Bureau of Shipping or other recognized classification societies for reviewing and approving plans required for issuing a certificate of inspection.", and

(4) by adding a new subsection (e), to read as follows:

"(e) No delegation to any "other recognized classification society" may be made unless (A) the foreign nation, community, or union of nations of origin (collectively referred to herein as "Country") of such "other recognized classification society" provides equal reciprocity (meaning unrestricted, timely and demonstrable access to its Country's market for international and domestic vessels for all classification, certification and related services) to the American Bureau of Shipping, and (B) the "other recognized classification society" has offices and maintains records in the United States, demonstrates financial responsibility, and meets and maintains standards for a classification society acceptable to the Secretary."

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